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ACT NO. 14 OF 2011

National Assembly Electoral Act, 2011

An act to repeal and replace the National Assembly Elections Act 1992; to give effect to the constitutional right of citizens to vote and stand for elections; to provide for periodic elections under a system of universal and equal suffrage; to provide for a secret ballot; to provide for some members of the National Assembly to be elected in respect of eighty constituencies and others in accordance with the principle of proportional representation applied in respect of the National Assembly as a whole; to provide for additional powers, duties and functions of the Independent Electoral Commission; to provide for procedures for the registration of electors and political parties; to provide for the conduct of elections; to provide for procedures for the determination of objections; and to provide for incidental matters.

CHAPTER 1 – PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Assembly Electoral Act, 2011 and shall come into operation on the date of its publication in the Gazette.

Interpretation

2. (1) In this Act, unless the context otherwise requires -

“advance elector” means any elector who has applied to vote as an advance elector or has voted as such in terms of Part 1 of Chapter 6;

“agent” means a person appointed by a candidate or a political party to represent the candidate or the political party;

“alliance” means an alliance that is formed pre-elections as a political agreement of more than one political parties which are registered with the Commission to contest elections;

“area electoral officer” means an electoral officer appointed and holding office under section 150(1);

“ballot envelope” means an envelope to be used for the purpose of transmitting the vote of a person voting as an advance elector;

“by-elections” means constituency elections -

- (a) to fill a vacancy which has occurred in the representation of a constituency in the National Assembly;
- (b) in circumstances where prior elections have been declared to have failed and a fresh elections have been proclaimed under section 44(2)(b); or
- (c) in circumstances where candidates have received equal number of votes and the High Court has ordered fresh elections under section 103(5);

“candidate” means a person who is nominated to stand for elections as a member of the National Assembly;

“certified” in relation to an extract of the Register means certified by the Director;

“Chief” includes a headman who performs the functions of a Chief;

“Code” means the Electoral Code of Conduct referred to in section 122 and contained in Schedule 2;

“Commission” means the Independent Electoral Commission established under the Constitution;

“Constitution” means the Constitution of Lesotho 1993 as amended;

“constituency” means an area whose boundaries are prescribed in terms of section 67 of the Constitution;

“constituency elections” means elections for membership of the National Assembly as representative of a constituency;

“corrupt practice” means a practice contemplated in the offences referred to in Part 2 of Chapter 11;

“court of competent jurisdiction” means the High Court or a court having jurisdiction to try an offence referred to in this Act;

“Defence Force” means the Lesotho Defence Force;

“dependant” in relation to a public officer, means a person who is related to the officer through blood or marriage and who is dependent on that officer for the necessities of life;

“deputy voting station manager” means the person appointed in that capacity under section 152(2)(d), and includes a person acting in that capacity;

“deputy returning officer” means the person appointed in that capacity under section 152(2)(b), and includes a person acting in that capacity;

“diplomatic mission” includes an embassy, high commission, legation, charge d'affaires and consulate;

“Director” means the Director of Elections appointed under section 144 and includes any person who is acting in that capacity;

“elections day” means the day proclaimed for an election under section 37(1) or 38(1);

“elections notice” means -

- (a) in respect of a general elections, a notice published under section 37(3);
- (b) in respect of constituency elections contemplated in section 38, a notice published under subsection (4) of that section;
- (c) in respect of proportional representation elections, the notice of the results of the elections published under section 106(7)(b);
or
- (d) in respect of a constituency, the notice of the results of the elections published under section 45 or 106(7)(a);

“elections period” means the period beginning with the date of publication of

the elections notice under section 37(3) or 38(4) and ending on the date of the notice of the results of elections published in terms of section 106;

“elections petition” means a petition presented to the High Court in accordance with Chapter 9;

“elections timetable” means the timetable for elections published by the Commission in terms of section 3 or 38;

“elector” means a person who registered as an elector under Part 2 of Chapter 2 and in relation to a particular constituency, a person whose name appears in the electors’ register prepared for that constituency;

“elector’s identifying number” means the prescribed serial number allocated to each registered elector upon registration;

“electors’ list” means a list of those electors who are eligible to vote during elections and includes a copy of such a list;

“electors’ register” means any extract of the Register which is produced by the Commission and may include an extract for a number of constituencies or a number of voting districts in a constituency;

“electoral area” means the area determined by the Commission under section 135(1)(f);

“electoral officer” means the Director, an area electoral officer, returning officer, deputy returning officer, voting station manager, deputy voting station manager, official witness, voting station officer, electoral officer, voting station officer or any other officer appointed by the Commission whether temporarily or permanently;

“general secretary” means a person whose duties include -

- (a) conducting the correspondence of a political party in its relationship with the Commission; and
- (b) being responsible for the administration of the political party business;

“high judicial office” has the same meaning as in section 153(1) of the Constitution ;

“illegal practice” means a practice that constitutes an offence under Part 3 of Chapter 11;

“independent candidate” means a candidate in constituency elections whose candidature is not sponsored by a political party;

“Minister” means the Minister responsible for law and constitutional affairs;

“notice” means a written notice served in the manner prescribed under section 191, except where this Act refers to a notice published in the Gazette;

“notify” means the service of a notice in the manner prescribed under section 191;

“National Assembly” means the National Assembly of the Parliament of Lesotho;

“nomination period” means the period specified in the elections timetable in which nomination for candidates in constituency elections may be nominated;

“offensive weapon” means anything which, when used is capable of inflicting injury or causing death;

“officer” in relation to a political party or other organisation includes the chairperson, president, vice chairperson, vice president, secretary, treasurer and any member of the executive committee or management committee of the political party or organisation;

“official mark” means a mark produced by the application of a marking instrument provided by the Director under section 57;

“official symbol” means a symbol for identifying a political party or an independent candidate during elections, and includes a copy of that symbol;

“official witness” means a person appointed as such in terms of section 151(2)(d), and includes a voting station manager, deputy voting station manager and voting station officer;

“paid-up member” in relation to a political party means a member of the political party whose membership of the political party resulted from an application

made by the member to join the political party, and who is under the political party's constitution obliged to pay to the political party a membership fee;

"party list" means a list submitted by political parties in respect of proportional representation candidates as published in terms of section 50(1)(c);

"proportional representation candidate" means a candidate whose candidature for election is sponsored by a political party and whose name appears on the party list;

"proportional representation elections" means an election of representatives for the National Assembly in general elections from the party list based on proportional representation in accordance with sections 104, 105 and Schedule 3;

"police assistant" means a temporary assistant trained and employed by the Police Service for elections duties at voting stations during elections;

"police officer" means a member of the Police Service and includes a member of the Defence Force authorised to exercise the functions of a police officer under this Act and a police assistant;

"Police Service" means the Lesotho Mounted Police Service;

"political party" means an association that is registered under the Societies Act 1966 whose primary purpose is to contest elections for election of members of the National Assembly but for purposes of proportional representation elections includes an independent candidate;

"Register" means the General Elector's Register established and maintained under section 17(1) and includes a copy of the General Electors' Register;

"regulations" means regulations made under this Act;

"returning officer", in relation to a constituency, means -

- (a) the person appointed during elections period under this Act;
or
- (b) if returning officer is absent from the constituency during elections period or is otherwise incapacitated from performing the

returning officer's functions, the deputy returning officer appointed for that constituency will act in that position;

"Speaker" means the Speaker of the National Assembly;

"special ballot paper" means a ballot paper consisting of the names of political parties registered with the Commission and contesting the National Assembly Elections and issued only in a constituency where there are failed or uncontested constituency elections;

"sign" in relation to a person who is unable to write includes placing a cross or a mark by means of a finger or thumb print;

"tendered ballot paper" means a ballot paper referred to in section 92(3);

"voting centre" means a location where there is one or more voting stations;

"voting compartment" means a part of a voting station set aside to enable electors to vote in secret;

"voting district" means the district determined under section 154 as adjusted from time to time in accordance with that section;

"voting station" means a station established by the Director under section 155;

"voting station manager" means -

- (a) a person appointed and employed under this Act in terms of section 151 to conduct voting at a voting station; or
- (b) if voting station manager is absent from the voting station while voting is in progress or is otherwise incapacitated from performing voting station manager's functions, means the deputy voting station manager appointed in terms of section 151 for that voting station;

"voting station officer" means a person appointed and employed under this Act in terms of section 151 and includes a person acting in that capacity.

(2) The calculation of days in this Act shall exclude Saturdays, Sundays or Public Holidays.

CHAPTER 2 – REGISTRATION OF ELECTORS

Part 1 – Right to Vote and Obligation to Register as an Elector

Right to vote

3. (1) An elector has the right to vote in the voting district in which the elector is registered.

(2) Subject to the provisions relating to advance voting in Part 1 of Chapter 6 and the provisions of section 82(2), every elector may only exercise the right to vote at the voting station allocated to that elector in terms of section 7(1)(e).

Obligation to register as an elector

4. (1) A person who qualifies as an elector under section 5 shall apply for registration -

(a) in the prescribed form;

(b) in the constituency in which that person originates
~~from, ordinarily resides or works; and~~

(c) subject to subsection (2), within 60 days of that person -

(i) becoming qualified in terms of section 5; or

(ii) if previously disqualified, ceasing to be disqualified.

(2) The 60 day period contemplated in subsection (1)(c) does not include -

(a) any period that a person is absent from Lesotho; and

(b) any period of suspension contemplated in section 12.

(3) It is an offence for a person who, without reasonable cause,

fails to register as an elector under this section.

Qualifications for an elector to be registered

5. (1) Subject to subsection (2), a citizen of Lesotho who has attained the age of 18 years qualifies for registration as an elector under this Act.

(2) A person is not qualified to register as an elector if that person -

- (a) acknowledges an allegiance, obedience or adherence to a foreign power or state;
- (b) is under the sentence of death imposed by a Lesotho court;
- (c) has been convicted of an offence -
 - (i) under Parts 1 to 3 of Chapter 11, except sections 156 and 160; and
 - (ii) 5 years have not elapsed from the date of conviction.
- (d) is declared to be of unsound mind under the laws of Lesotho.

Part 2 – Registration of Electors

Application for registration

6. (1) An applicant for registration as an elector under this Act shall submit the application -

- (a) in the form prescribed under Schedule 1;
- (b) in the Sesotho or English language; and
- (c) accompanied by -

- (i) documentary proof of the applicant's identity;
or
- (ii) a sworn declaration by another elector confirming the applicant's identity.

(2) If an applicant is unable to complete and sign an application for registration as an elector because of physical incapacity, illness or illiteracy, an electoral officer shall, in the presence of the applicant and another elector, complete and sign the application on behalf of the applicant.

(3) Subject to section 7, a person who is 17 years of age and who is otherwise qualified to register as an elector in terms of section 5 may apply to be registered as an elector.

Processing of applications by Director

7. (1) If the Director is satisfied that an application referred to in section 6 is properly made and that the applicant is qualified to be registered as an elector, the Director shall -

- (a) register the applicant as an elector in respect of a constituency;
- (b) enter the applicant's details in the Register;
- (c) issue the applicant with an elector's identifying number;
- (d) determine the voting district in which an elector has the right to vote;
- (e) allocate the voting station at which an elector shall exercise the right to vote; and
- (f) issue the applicant with an elector's registration card in the prescribed form.

(2) If the Director is satisfied that an application by an applicant who is 17 years of age is properly made in terms of section 6 and that the appli-

cant is otherwise qualified to be registered as an elector under this Act, the Director shall, subject to subsection (3) -

- (a) enter that person's details in the Register on a provisional basis until that person turns 18 years of age; and
- (b) register that person in respect of a constituency when that person turns 18 years of age.

(3) Subject to subsection (4), when a person provisionally registered in terms of subsection (2) turns 18 years of age, the applicant's provisional status falls away and the Director shall issue that person with an elector's registration card in the prescribed form.

(4) If a person, provisionally registered in terms of subsection (2), turns 18 years of age after the commencement of the elections period but on or before elections day, the provisions of subsection (3) shall apply.

(5) If the Director is not satisfied that the application is properly made or that the applicant is qualified to be registered as an elector, the Director may -

- (a) request clarification or further information from the applicant; or
- (b) refuse the application.

(6) If an application is refused, the Director shall notify the applicant of the refusal and the reasons for the decision.

(7) Notwithstanding the provisions of this section, the Director shall not register a person during any period of suspension contemplated in section 12.

Change of constituency or address

8. (1) A registered elector shall notify the Director of any change in the address recorded in the Register -

- (a) in the prescribed form; and

(b) within 60 days of the change.

(2) If satisfied that the notification has been properly made, the Director shall reflect the change of address on the Register.

(3) If an elector wishes to change the constituency in which the elector is registered, the elector may apply to the Director, in the prescribed form, to transfer registration to that constituency.

(4) If the Director is satisfied that the application for a change in constituency in terms of subsection (3) is properly made and that the applicant is qualified to be registered in respect of that constituency in terms of section 4(1)(b), the Director shall register the elector for that constituency and reflect that change in the Register.

(5) Notwithstanding the provisions of this section, the Director shall not register a change of address or constituency during any period of suspension contemplated in section 12.

Loss or damage to elector's registration card

9. (1) If an elector's registration card is lost, destroyed or damaged, the elector may apply in the prescribed form to the Director for a duplicate copy of the card.

(2) If the Director is satisfied that the elector's registration card has been lost, destroyed or damaged, the Director shall issue a duplicate card in the prescribed form.

Request for information by Director

10. (1) The Director may request clarification or further information from any person in respect of any application or notification made in terms of this Chapter.

(2) A person on whom a request contemplated in subsection (1) has been made shall provide the clarification or information to the Director in the form requested within 14 days of the request or within any extended period granted by the Director.

- (3) If a person fails to comply with subsection (2) and that person -
- (a) is an applicant contemplated under section 6 or 8(3), the application lapses; or
 - (b) has notified the Director of a change of address in terms of section 8(1), the notice lapses.

Director to prepare list of refused registration applications

11. (1) The Director shall compile, on a regular basis, a list of refused applications showing -

- (a) the name and address of each applicant; and
- (b) the reasons for refusing an application.

(2) A copy of the list under subsection (1) shall be provided without charge to -

- (a) each political party registered with the Commission ~~and independent candidate who has registered an official symbol under section 32; and~~
- (b) any other person prescribed under the regulations.

(3) The Director shall ensure that a copy of the list referred to in subsection (1) is available for public inspection, without charge, at the following offices during ordinary office hours:

- (a) the Director's office;
- (b) each district office of the Commission; and
- (c) each constituency office of the Commission in respect of which constituency there is a refused application.

Suspension of registration

12. (1) The registration of electors, including any change of registration, under this Part shall be suspended during the elections period.

(2) The registration of electors under this Part shall be suspended from the 8th day after the commencement of the elections period and shall end 90 days after the last day of that period unless the Commission decides to end the suspension before the expiry of the 90 days.

(3) If an application for registration is made during a period when registration is suspended, the application shall be received but not processed until the suspension period contemplated in subsection (2) has ended.

Objections in respect of registration of electors not during the elections period

13. (1) A person referred to in subsection (2) may object to -

(a) the inclusion or removal of the name of any person in the Register; or

(b) ~~the grant or refusal of any application made under this Part.~~

(2) The persons contemplated in subsection (1) are:

(a) the applicant;

(b) a person who is entitled to be registered as an elector;

(c) an elector ; or

(d) a registered political party.

(3) The objection referred to in subsection (1) shall be made in the prescribed form setting out the grounds of the objection and lodged with the Director within 15 days of the relevant date referred to in subsection (4) and the Director may extend this period by notice published in the Gazette.

(4) The date for the calculation of the period referred to in subsection (3) is -

- (a) if the objection relates to the inclusion, omission or removal of an elector's name on the Register, the date of the publication of the elector's list in which the name is included, omitted or removed;
- (b) if the objection relates to the transfer of registration to another constituency, the date of the publication of the electors' list in which the transfer is reflected;
- (c) if the objection relates to the grant of an application made under this Part, the date the Director notifies the applicant;
- (d) if the objection relates to the refusal of an application of registration -
 - (i) the date the Director notifies the applicant; or
 - (ii) the date of publication of the list of refused registration applications referred to in section 11;
- (e) if the objection relates to the refusal of any other application made under this Part, the date the Director notifies the applicant.

(5) The Director shall acknowledge receipt of the objection in writing and notify the person who is the subject of the objection together with a copy of the objection.

(6) The person who is the subject of the objection may make representations to the Director within 14 days of the notice referred to in subsection (5).

(7) After considering any representations made under subsection (6), the Director shall -

- (a) determine the objection;
- (b) notify the objector and the person in respect of whom the objection is made of the decision;
- (c) supply a statement of reasons for the decision; and
- (d) inform the objector or the person who is the subject of the objection, of the right to review the decision under section 14.

(8) If the objection is upheld, the Director shall give effect to the objection and, if necessary, rectify the Register accordingly.

(9) Subject to section 14, the decision of the Director under this section is final.

Objections during the elections period

14. (1) Objections may only be lodged during the elections period in respect of the inclusion, omission or removal of an elector from an electors' register made available for public inspection in terms of section 39(1)(d).

(2) An objection lodged in terms of section 13 but not finalised before the beginning of the elections period shall, depending on the stage of the application, be dealt with in terms of this section.

(3) Section 13 applies to an objection made under this section except that -

- (a) the objection shall be lodged within seven days of the Register being made available for public inspection in terms of section 22;
- (b) section 13(5) and (6) does not apply;
- (c) any representations made by an affected party shall be made in writing within 7 days of the objection being lodged; and

- (d) the Director shall determine the objection within 7 days after the period referred to in paragraph (c) has expired.

(4) Section 15 applies to a review of a determination by the Director in terms of subsection (3)(d) read with section 13 except that should the Director fail to determine the objection within the 7 days referred to in subsection (3)(d), the failure constitutes a refusal for the purposes of this section.

(5) Nothing in this section prevents a person lodging an objection in terms of section 13 against the grant or refusal of an application made in terms of this Part after the expiry of the elections period and, for the purpose of calculating the number of days within which an application may be made in terms of subsection (4) of that section, the number of days of the elections period shall not be counted.

Review of Director's decision on objection

15. (1) A person who is dissatisfied with the Director's decision under section 13 may, submit that decision to the High Court for review within 7 days of the receipt of the notice referred to in section 13(7)(b).

- (2) The High Court's decision is final.

Monitoring of registration of electors by political parties

16. (1) A political party registered with the Commission may appoint agents to monitor the registration of electors.

(2) A political party registered with the Commission shall notify the Commission in the prescribed manner of its appointed agents and the constituencies to which they have been assigned.

(3) An agent of a political party registered with the Commission shall be entitled -

- (a) to monitor registration in the constituency to which the agent has been assigned; and
- (b) to obtain information from the Director on any activi-

ties relating to the registration of electors.

(4) A person shall not interfere or hinder an agent in the exercise of an agent's rights or the performance of an agent's duties.

(5) An agent of political party registered with the Commission shall monitor registration activities conscientiously and objectively and shall not -

- (a) interfere in or hinder the work of electoral officers;
- (b) divulge any information about an elector or prospective elector that -
 - (i) is acquired as a consequence of acting as an agent; and
 - (ii) is not relevant to that elector's registration.

Part 3 – General Electors' Register

The Register

17. (1) The Director shall compile and maintain a General Electors' Register.

(2) The Register may be made up only from the successful applications for registration made under Part 2 of this Chapter.

(3) The Director shall arrange the Register by constituency and record the following particulars in respect of each elector:

- (a) the elector's surname and first or given names;
- (b) the elector's identifying number;
- (c) the basis for qualifying for registration within the constituency in terms of section 4(1)(b);
- (d) the address in the constituency where the elector origi-

nates from, lives or works;

- (e) the elector's gender and date of birth; and
- (f) any other information that may be prescribed under the regulations.

Changes to the Register

18. (1) Subject to subsections (5) and (6), the Director shall, if satisfied as to the relevant facts, change the Register for the purpose of -

- (a) correcting any mistake;
- (b) cancelling any particulars that should not have been included in the Register;
- (c) recording any change in the particulars of registration of an elector;
- (d) cancelling the registration of any person who has died;
- (e) ~~cancelling the registration of a person who is no longer~~ qualified to be, or is disqualified from being, registered as an elector;
- (f) cancelling the registration of a fictitious person;
- (g) cancelling the earlier registration of a person whose name appears in the Register more than once;
- (h) restoring the particulars of an elector whose particulars were wrongly removed from the Register;
- (i) including the particulars of an applicant for registration whose application for registration has been wrongly refused; or
- (j) give effect to any decision made by the High Court in terms of section 15.

(2) The Director shall notify the elector concerned of the cancellation of that elector's registration, unless the elector has died or is a fictitious person.

(3) If during the period of suspension referred to in section 12, an objection is upheld, the Director shall amend the Register in accordance with the High Court's ruling.

(4) If extracts of the Register have been prepared for the purpose of the elections, the Director may determine the manner in which the relevant extracts are to be amended.

(5) The Register does not have to be amended under this section during the period beginning at 4 p.m. on the seventh day before the elections day, or if there is more than one elections day, the first elections day for the elections and ending at the end of the elections period.

(6) The Register does not have to be amended under this section during the period of suspension of the registration of electors referred to in section 12 in respect of recording the change of address of an elector where the Director has received notice of the change of address during that period.

Death of an elector

19. (1) When an elector dies within the area of a Chief or Headman, that Chief or Headman shall report the death to the Director.

(2) A report contemplated in subsection (1), shall be in the prescribed form and made within 7 days of the person's death.

(3) Upon receipt of the report referred to in subsection (1), the Director shall remove the elector's name from the Register.

(4) A person referred to in this section who, without good cause, fails to comply with this section, commits an offence.

Director to be informed of convictions and declarations

20. (1) The Registrar of the High Court or Clerk of Court in which a

sentence, conviction or declaration referred to in this subsection has been handed down shall notify the Director of any person who -

- (a) has been sentenced to death;
- (b) has been convicted of an offence under Parts 1 to 3 of Chapter 11, except sections 156 and 160; or
- (c) is declared to be of unsound mind.

(2) The notice referred to in subsection (1) shall be given within a period of 14 days of -

- (a) if the right to appeal is not exercised, the date the right to appeal against the sentence, conviction or declaration expires; or
- (b) if the right to appeal is exercised, the date the appeal is dismissed.

(3) Upon receipt of the notice referred to in subsection (1), the Director shall remove the elector's name from the Register in accordance with section 18.

(4) A person referred to in this section who, without good cause, fails to comply with this section, commits an offence.

Renunciation or deprivation of citizenship

21. (1) The Registrar-General shall notify the Director of any person who has been deprived of citizenship or who has renounced citizenship in terms of sections 22 or 23 of the Lesotho Citizenship Act, 1971 within a period of 7 days of becoming aware of the deprivation or renunciation.

(2) On receipt of a notice referred to in subsection (1), the Director shall remove the name of an elector identified in the notice from the Register in accordance with section 17.

Right to inspect the Register

22. (1) The Director shall ensure that the Register is available for public inspection, without charge, at the office of the Director during ordinary office hours.

(2) The Director may also make available for public inspection, without charge, a copy of -

- (a) the Register at any place that the Director considers appropriate;
- (b) an extract of the Register relating to an electoral district at the district office; or
- (c) an extract of the Register relating to a constituency at the constituency office.

(3) A person who wishes to do so may, without charge, make a copy of any part of the Register, including updates or extracts made available for inspection under this section.

CHAPTER 3 — REGISTRATION OF POLITICAL PARTIES AND SYMBOLS

Part 1 – Registration of Political Parties

Political parties to register

23. A political party shall not contest an election or sponsor a candidate for election unless it is registered with the Commission in terms of section 24.

Requirements for registration

24. (1) A political party may apply for registration with the Commission if -

- (a) it is a party registered under the Societies Act, 1966;

- (b) its membership is voluntary and open to all citizens of Lesotho without discrimination on the grounds of race, colour, gender, language, religion, nationality or social origin, property, birth or other status;
- (c) it has adopted a name and symbol that does not conflict with the limitations contained in section 33;
- (d) it has adopted a party constitution that does not conflict with subsection (2);
- (e) it has adopted a constitution that meets the requirements of subsection (3); and
- (f) it has a paid-up membership of at least 500 electors.

(2) The Commission shall verify the paid-up membership of a political party intending to register with it by checking -

- (a) a receipt for membership of the political party or a membership card; and
- (b) the political party membership register.

(3) The Commission shall not accept the application for registration of a political party if it is satisfied that the political party does not have a minimum of 500 paid-up membership.

(4) A political party that provides false registration information to the Commission shall not be allowed to re-register for a period of 5 years.

(5) A political party that intends to register with the Commission may not include in its constitution any provision that -

- (a) exclusively promotes the interests of any religious belief or group;
- (b) exclusively promotes a specific area or part of the Kingdom of Lesotho;

- (c) exclusively promotes the interests of any ethnic or racial group; or
- (d) advocates the use of force or violence as a means of attaining its political objectives.

(6) The constitution of a political party that intends to register with the Commission shall -

- (a) provide for the qualifications for and admission to membership;
- (b) provide for membership fees;
- (c) provide for a procedure for the termination of membership;
- (d) provide for periodic and democratic election of its leadership;
- (e) establish the manner in which decisions are made;
- (f) ~~establish the office of secretary general and define its~~ functions;
- (g) provide for a procedure for the appointment of officials and agents and define their functions and scope of authority;
- (h) establish the circumstances and manner in which officials and agents may be removed from office;
- (i) provide for the banking and investing of its money;
- (j) provide for a single bank account into which the party's income is deposited and from which all elections expenses are paid;
- (k) establish the purposes for which its money may be used;

- (l) prescribe a procedure for changing its constitution; and
- (m) prescribe a procedure by which it may resolve to wind up.

Application for registration

25. (1) An application for registration of a political party shall be -
- (a) made by its president, chairperson or secretary general;
 - (b) in the prescribed manner and form;
 - (c) accompanied by -
 - (i) a copy of its constitution setting out its name, its abbreviated name, if any, and its distinguishing symbol;
 - (ii) the prescribed application fee;
 - (iii) a declaration in the prescribed form supporting the application signed by not less than 500 paid-up membership whose names appear on the Register;
 - (iv) particulars of all assets and liabilities and all bank accounts of the political party;
 - (v) a statement from a bank indicating the party's bank account contemplated in section 24(6); and
 - (vi) any other prescribed documents.
- (2) A declaration referred to in subsection (1)(c)(iii) shall include -
- (a) the full names and the registered and postal addresses of the persons who signed the declaration; and

-
- (b) the names of the constituencies in respect of which the signatories are registered.
 - (3) On receipt of the application referred to in subsection (1), the Commission -
 - (a) shall verify at least 10% of the names so submitted for authenticity and shall refer the applicant's name and symbol to the Director for approval under section 31;
 - (b) shall register the applicant if -
 - (i) the application complies with subsection (1);
 - (ii) the Director approves the applicant's name and symbol under section 31; and
 - (iii) the applicant meets the requirements for registration referred to in section 24.
 - (c) may refer the application back to the applicant party in order to correct any defect in the application;
 - (d) shall, if the Commission refuses to register an applicant, notify the party and supply written reasons for the refusal.
 - (4) Upon the advice of the Commission that a political party has been registered, the Director shall -
 - (a) issue that political party with a certificate in the prescribed form; and
 - (b) publish the political party's particulars of the registration in the Gazette.
 - (5) The Commission shall maintain a register of political parties which will be subject to public inspection.

Amendments to constitution of a political party

26. (1) A political party registered with the Commission may amend its constitution provided that it does not conflict with the requirements for registration contained in section 24.

(2) A political party registered with the Commission shall notify the Commission of any amendments of its constitution within 30 days of the amendment.

Cancellation of registration of a political party

27. (1) The Commission may cancel the registration of a political party if -

- (a) the political party ceases to exist or no longer functions;
- (b) the political party has dissolved or is intending to dissolve;
- (c) it no longer complies with the requirements for registration referred to in section 24(1)(a) to (f);
- (d) its constitution does not comply with section 24(3) and (5);
- (e) the political party fails to comply with sections 24(5) and 27(3);
- (f) it fails to comply in any material respect with the Code referred to under section 122;
- (g) it contravenes the Code in the circumstances referred to in section 122(4)(e); or
- (h) the political party does not comply with its obligations in terms of this Act despite being warned by the Commission to do so.

(2) Before the Commission cancels the registration of a political party or an alliance in terms of subsection (1), it -

- (a) shall give notice to the political party of the grounds of the proposed cancellation;
- (b) shall give the political party 30 days within which to make written representations;
- (c) may hold a hearing;
- (d) shall consider any evidence supplied or representations made in terms of paragraph (b) or (c); and
- (e) shall notify the political party of its decision and, if the Commission decides to cancel the political party's registration, shall include in that notice the reasons for its decision.

Appeals against refusal or cancellation of registration of a political party

28. A political party that is aggrieved by a decision of the Commission not to register it or to cancel its registration may, within 30 days after the party has been notified of the decision, appeal to the High Court against the decision.

Inspection of documents

29. (1) The Commission shall keep the constitution of a political party registered with the Commission and a copy of every document concerning the registration of the political party in its possession.

(2) The public may inspect the constitution and documents contemplated in subsection (1) during office hours at the office of the Commission without charge.

(3) A political party registered with the Commission shall provide its current paid-up membership to the Commission annually in terms of section 25(1)(c).

Participation of women, youth and disabled persons

30. (1) A political party registered with the Commission shall -
- (a) facilitate the full participation by women, youth and disabled persons in political activities on the basis of equality;
 - (b) ensure free access by women, youth and disabled persons to public political meetings, facilities and venues;
 - (c) respect the right of women, youth and disabled persons to communicate freely with political parties;
 - (d) generally refrain from forcing women, youth and disabled persons to adopt a particular political position or to engage in, or refrain from engaging in, any political activity otherwise than in accordance with their free choice;
- (2) Nothing in this section shall be construed as promoting discrimination on the grounds of gender, disability or youth.

Part 2 – Registration of Names and Official Symbols**Registration of names and official symbols for political parties**

31. (1) A political party registered with the Commission shall have a registered name and an official symbol.
- (2) On a referral from the Commission contemplated in section 25(3)(a), the Director shall -
- (a) approve the name and official symbol of the political party if its name and symbol does not conflict with limitations contained in section 33;
 - (b) refuse to approve the name or symbol if it conflicts with the limitations contained in section 33; and

(c) notify the Commission accordingly.

(3) If the Commission registers a political party under section 25(3)(b), the Director shall enter the political party's name and symbol into the register of names and symbols.

(4) A political party registered with the Commission may apply in the prescribed form to change its name or official symbol and the Director shall approve the changes if the changed name or symbol does not conflict with the limitations contained in section 33.

(5) Upon the approval referred to under subsection (4) the Director shall notify the Commission of such approval for registration.

(6) If the Director refuses to approve a name or official symbol under this section, the Director shall notify the Commission and the political party of the refusal and give written reasons for the refusal.

(7) If a political party is not satisfied with the decision of the Director refusing its application for change of name and symbol, the political party may appeal to the Commission against the decision of the Director within a period of 7 days.

(8) Upon receipt of the appeal the Commission shall make a decision on the appeal, within a period of 7 days.

Registration of official symbols for independent candidates

32. (1) Subject to subsection (6), a person intending to stand as an independent candidate in constituency elections may apply to the Director in the prescribed form to register an official symbol for use during elections.

(2) The Director shall register an official symbol if the application is made in the prescribed form and the design of the symbol does not conflict with the limitations referred to in section 33.

(3) The registration of an official symbol under subsection (2) remains in force for a period of 5 years and thereafter expires unless a fresh application is made in the prescribed form and manner and within the prescribed period.

(4) If, the Commission refuses to register an official symbol, the Director shall notify the applicant of the refusal and give written reasons for the refusal.

(5) If on the promulgation of elections under Chapter 4, a person intending to stand as an independent candidate has not registered an official symbol under subsection (1), the candidate shall select a symbol from a selection of symbols provided by the Director for that purpose.

(6) A symbol chosen by an independent candidate in terms of subsection (5) shall be deemed to be the registered symbol of that candidate for the elections period:

Provided that the Director may allow an independent candidate in another constituency to select the same symbol.

Limitation on certain names and symbols

33. (1) The Director may not approve the name or official symbol of a political party or person intending to stand as an independent candidate if the name or symbol -

- (a) is the same or so closely resembles the name or symbol of another political party that it is likely to mislead or cause confusion;
- (b) subject to subsection (2), is the same or so closely resembles the name or symbol of a political party whose registration has been cancelled in terms of section 27 or whose symbol has been cancelled in terms of section 33 that it is likely to mislead or cause confusion;
- (c) contains a representation of the national flag, or the national armorial ensign, or so closely resembles that flag or ensign as to be likely to be mistaken for it;
- (d) contains a representation of the coat of arms or emblem used by, or associated with, the Royal Family of Lesotho or so closely resembles that coat of arms or

emblem as to be likely to be mistaken for it;

- (e) contains a representation of any logo, mark, symbol of a prominent public body or so closely resembles that logo, mark or symbol as to be likely to be mistaken for it; or
- (f) is, in the Director's opinion, obscene or is likely to cause offence to members of the public or if registered, is likely to bring the electoral system into disrepute.

(2) The prohibition on the registration of a name or symbol of a political party contemplated in subsection (1)(b) remains in existence for 2 general elections.

Cancellation of registration of an official symbol

34. (1) The Director shall cancel the registration of an official symbol of a political party if -

- (a) the political party applies for and the Commission registers an amended or new symbol for the party in terms of section 31;
- (b) the registration of the political party has been cancelled and the political party -
 - (i) has not appealed in terms of section 27; or
 - (ii) appeals but fails in its appeal under section 27.
- (c) the registration was obtained by fraud or misrepresentation.

(2) The Director shall cancel the registration of an independent candidate's official symbol registered under section 32 -

- (a) if requested to do so by that person;
- (b) if the person has died;

- (c) if the registration was obtained by fraud or misrepresentation; or
- (d) at the end of 5 years from the date of registration.

(3) The Director may cancel the registration of an independent candidate's official symbol registered under section 32 if, without good reason, that person does not stand for elections held during the period in which the registration is in force.

Appeals

35. (1) A person who is aggrieved by the decision of the Commission in respect of the registration or cancellation of registration of a name or official symbol under this Part may appeal to the High Court.

- (2) An appeal referred to in subsection (1) shall be lodged -
 - (a) if the person is an applicant, within 30 days of the date on which that person was notified of the decision; or
 - (b) within 30 days of the notification contemplated in section 32(4) in respect of any other person.
- (3) In considering an appeal against the refusal to register a party on the grounds contemplated in section 33, the High Court -
 - (a) shall take into account the fact that the party associated with the official symbol for the longest period, should *prima facie* be entitled to name, mark or symbol;
 - (b) may, for the purposes of paragraph (a) afford the parties concerned an opportunity to offer such proof, including oral evidence or sworn statements by any person who, in the opinion of the High Court, may assist in the expeditious determination of the matter.

Register of political parties and their official symbols

36. (1) The Director shall establish and maintain a register, called the register of names and official symbols, in the prescribed form and manner.

(2) The Director shall ensure that the register referred to subsection (1) is made available for public inspection during ordinary office hours, without charge, at the office of the Director.

(3) A person who wishes to make a copy of an entry in the register referred to in subsection (1) may do so without charge.

(4) The Director shall, periodically, publish the names and official symbols of the registered political parties in the Gazette.

CHAPTER 4 – PROMULGATION OF AND PREPARATION FOR ELECTIONS

Part 1 – Promulgation of Elections

Promulgation of general elections

37. (1) If the National Assembly is dissolved or stands dissolved, the King, acting on the advice of the Council of State, shall proclaim the day on which general elections of members of the National Assembly are to be held.

(2) The proclamation referred to in subsection (1) -

- (a) may be made before dissolution of the National Assembly;
- (b) shall be made no later than 4 days after dissolution;
- (c) shall be in accordance with Form 2 in Schedule 1; and
- (d) shall be directed to the Commission.

(3) As soon as is practicable after the proclamation has been made under subsection (1), the Director shall by notice in the Gazette publish -

- (a) a copy of the proclamation; and
 - (b) an elections timetable in accordance with -
 - (i) Form 3 in Schedule 1; and
 - (ii) the provisions of this Act.
- (4) The elections timetable shall specify -
 - (a) the date on which the registration of electors is suspended;
 - (b) the date on which nomination of candidates for constituency elections is to close;
 - (c) the date on which the submission of party lists is to close;
 - (d) the date and place within each constituency where and when nominations for constituency elections are to be announced;
 - (e) the person appointed to be the returning officer for each constituency; and
 - (f) any other prescribed date including the date on which the elections results are to be published.
- (5) The date specified under subsection (4)(b) -
 - (a) shall be not less than 30 days and not more than 60 days before election day; and
 - (b) if Parliament does not stand dissolved, may be on a day before the dissolution of Parliament.

Promulgation of elections in a constituency in certain circumstances

38. (1) Subject to subsection (2), the King, acting on the advice of the

Council of State, shall proclaim the day on which elections in a constituency are to be held within 4 days of being advised by the Commission that -

- (a) there is a vacancy in the membership of a constituency in the National Assembly;
- (b) constituency elections have failed in the circumstances contemplated in section 44; or
- (c) the High Court orders constituency elections in terms of section 130(1)(d).

(2) Constituency elections may not be held within 6 months preceding the dissolution of Parliament pending general elections.

(3) The proclamation shall be directed to the Commission and shall be in accordance with Form 2 in Schedule 1.

(4) As soon as is practicable after the Proclamation has been made under subsection (1), the Director shall, by notice in the Gazette publish -

- (a) a copy of the Proclamation;
- (b) an elections timetable in accordance with -
 - (i) Form 3 in Schedule 1, with the changes required by context; and
 - (ii) the provisions of this Act.

(5) The elections timetable shall specify -

- (a) the date on which the registration of electors is suspended;
- (b) the date and time on which nomination of candidates is to close;
- (c) the date and place in the constituency where and when nominations are to be announced;

- (d) the person appointed to be the returning officer; and
 - (e) any other prescribed date including the date on which the elections results are to be published.
- (6) The day specified under subsection (5)(b) shall be not less than 30 days and not more than 60 days before elections day.

Part 2 – Electors’ Registers

Director to prepare and publish electors’ registers

39. (1) As soon as practicable after the suspension of registration contemplated in section 12(2), the Director shall -

- (a) prepare an electors’ register for every constituency in which elections are to be held; and
- (b) provide a copy of the electors’ registers, without charge, to a political party registered with the Commission;
- (c) provide a copy of the electors’ register to the returning officer of the constituency in which the elections are to be held;
- (d) ensure that a copy of the electors’ register is made available for public inspection in the manner contemplated in section 21.
- (e) publish the electors’ registers -
 - (i) in the prescribed manner; and
 - (ii) no later than 30 days before elections day.

(2) Subsection (1) does not apply to elections proclaimed in terms of section 38(1)(b) and (c).

(3) Notwithstanding section 13, an elector, a person entitled to be registered as an elector or a political party registered with the Commission may make representations in the prescribed manner to the Director in respect of an electors register before it is published in terms of subsection (1)(e).

(4) An electors' register is not valid for the purposes of elections unless it is certified as correct and dated by the Director.

Part 3 – Nomination of Candidates: Qualification

Membership of National Assembly

40. (1) A person is eligible to be elected as a member of the National Assembly if, at the date of nomination, the person -

- (a) is registered as an elector under this Act;
- (b) is able to speak, read and write Sesotho or English well enough to take an active part in the proceedings of the National Assembly unless the person is unable to do so as a result of physical disability;
- (c) is not disqualified
 - (i) under section 59 of the Constitution; and
 - (ii) for any of the reasons listed in subsection (2).

(2) A person is not eligible to be elected as a member of the National Assembly if, at the date of nomination, the person -

- (a) is a member of the Commission, a member of the Commission's staff or an electoral officer;
- (b) is a member of the Defence Force, the Police Service, the National Security Service or the Correctional Service; or
- (c) holds, or is acting in, a public office.

(3) For the purpose of paragraph (c) of subsection (2) a public office is as defined in the Constitution and excludes offices specified in the Constitution.

Part 4 – Nomination of Candidates: Constituency Candidates

Procedure for nominating candidates for constituency elections

41. (1) An application for the nomination of a candidate for elections in a constituency shall be submitted to the returning officer for the constituency concerned by the date stated in the elections timetable for close of nominations.

(2) The application shall be -

- (a) in accordance with Form 4 in Schedule 1;
- (b) signed by a proposer and seconder both of whom shall be registered as electors in the constituency; and
- (c) accompanied by a deposit of M200.00 paid in the prescribed manner.

(3) A returning officer shall not accept the nomination of a person as a candidate unless the nomination form includes -

- (a) a statement signed by the person consenting to nomination; -
- (b) if the person is a candidate of a political party -
 - (i) a certificate signed by an office-bearer of the party, certifying that the person is the party's candidate for elections in the constituency; and
 - (ii) a representation, which shall be in black and white, of the political party's registered official symbol;

- (c) if the person is not a party candidate -
 - (i) a certificate, signed by the person, stating that the person is not a party candidate; and
 - (ii) a black and white representation of the person's registered official symbol, if any.
- (4) The returning officer shall post a list of persons who have submitted applications for nomination on the inside and outside of the office of the returning officer on the day after the close of nominations.
- (5) A person may withdraw consent for nomination as a candidate -
 - (a) before the date on which the nomination of candidates is to close;
 - (b) by lodging a written notice of withdrawal with the returning officer; and
 - (c) if the candidate is a party candidate, a copy of that notice on the political party registered with the Commission that sponsored the candidature.
- (6) On the day prescribed in the elections timetable, the returning officer for each constituency shall, at the place specified in the timetable, announce the nomination of candidates for elections for that constituency.

Objections to nomination of candidate for elections in constituencies

42. (1) An elector or political party may lodge an objection in respect of any name that appears on the list contemplated in section 41.
- (2) The objection referred to in subsection (1) shall be lodged -
 - (a) in the prescribed form;
 - (b) with the Commission; and
 - (c) by the date stated in the elections timetable.

(3) Within 5 days of the lodging of the objection, the Commission shall -

- (a) consider the objection;
- (b) make a decision on it; and
- (c) inform the objector and the person, against whom the objection is directed, of its decision in writing.

(4) A person who is aggrieved by the decision of the Commission may appeal against the decision to the High Court.

(5) The High Court shall hear and determine the appeal as expeditiously as possible and shall give its ruling at least 2 days before the date prescribed in the elections timetable for the announcement of nominations.

Repayment and forfeiture of deposit in constituency elections

43. (1) Unless the deposit is forfeited under subsection (2), the Director shall ensure that the deposit paid in terms of section 41(2)(c) is returned to the candidate or political party that lodged it as soon as practicable after declaring the results of the elections.

(2) A deposit paid in terms of section 41(2)(c) is forfeited to the Crown if -

- (a) the candidate is not elected and receives less than 10 percent of the number of votes cast during the elections for that seat; or
- (b) a candidate's nomination is withdrawn after date on which the nomination of candidates is to close.

(3) The Commission shall pay a forfeited deposit into the Consolidated Fund.

What happens when constituency elections fail

44. (1) If a candidate nominated for elections in terms of section 41(6) dies before voting begins or no candidate is nominated for elections, the returning officer shall immediately -

- (a) declare in the prescribed form that the elections have failed; and
- (b) forward the declaration to the Director.

(2) When the Director receives a declaration referred to in subsection (1), the following applies -

- (a) the Director shall cancel the elections notice in so far as it relates to that constituency;
- (b) the King shall proclaim a date for fresh elections in that constituency in terms of section 38; and
- (c) the Director may use the electors' register that was prepared for the failed elections for the fresh elections.

(3) If elections fail because of the death of a candidate, the other candidates nominated under section 41(6) are deemed to be nominated candidates for the fresh elections unless they withdraw.

(4) Notwithstanding the failure of elections due to death of a candidate, voting shall proceed in respect of proportional representation elections.

(5) The Director shall, using the special ballot paper, make arrangements, for voting to take place in the constituency concerned on the elections day prescribed for the purpose of voting during proportional representation elections.

What happens when only one candidate is nominated for elections in a constituency

45. (1) If at the close of nominations, only one person has been nominated as a candidate for elections, the returning officer shall immediately -

- (a) record on the prescribed form that the person is the only candidate nominated for elections for the constituency concerned; and
- (b) declare that candidate to be the duly elected member of the National Assembly for that constituency with effect from the date on which the elections period ends.

(2) A declaration under subsection (1) shall be made both inside and outside the office of the returning officer.

(3) As soon as practicable after making a declaration under subsection (1), the returning officer shall -

- (a) deliver to the Director and the area electoral officer concerned copies of the completed elections results form; and
- (b) give a copy of the form to the candidate or the candidate's agent; and
- (c) post a copy of the form in a conspicuous place on the outside, or in the immediate vicinity, of the office of the returning officer.

(4) A declaration by the returning officer under this section is final, unless the High Court sets aside the election of the candidate under Chapter 9.

(5) Notwithstanding the declaration under subsection (1)(b) the elections shall proceed in respect of proportional representation elections.

(6) The Director shall, using a special ballot paper, make arrangements for voting to take place in the constituency concerned on the elections day prescribed for voting during proportional representation elections.

Elections to be held when 2 or more candidates are nominated for elections

46. (1) If at the close of nominations, 2 or more candidates have been nominated for elections, the returning officer shall -

- (a) complete the prescribed form;
 - (b) post copies of that form both inside and outside the returning officer's office; and
 - (c) forward the prescribed form together with the nomination papers to the Director.
- (2) On being notified under subsection (1), the Director shall -
- (a) publish a notice in every town and village in the constituency in the prescribed form and manner; and
 - (b) arrange for elections to take place in the constituency on the elections day.

Part 5 – Nomination of Candidates: Party Lists

Procedure for submitting party lists of candidates for elections under proportional representation

47. (1) A political party intending to contest proportional representation elections shall nominate and submit a list of nominated candidates to the Director in the prescribed manner before the date stated in the elections time table for close of nominations.

- (2) The list shall -
- (a) include the names, electors' registration numbers, and addresses of at least 40 candidates but not more than 120;
 - (b) arrange the candidates in order of preference from top to bottom, with a female or male candidate immediately followed by a candidate of the opposite sex; and
 - (c) include equal numbers of women and men.
- (3) The list may include any candidate who is nominated for elections for a constituency seat in terms of section 41(6).

- (4) The list shall be accompanied by -
- (a) an undertaking, signed by the secretary general or any other authorised person as described in the regulations of the political party, binding the party, the persons holding political office in the party and its agents and members to the Code;
 - (b) a declaration, signed by the secretary general or any other authorised person of the political party, that each candidate on the list is qualified to stand for elections in terms of the Constitution or this Act;
 - (c) a statement signed by each candidate consenting to nomination in the prescribed manner;
 - (d) in the case of an alliance, a declaration signed by the secretary general or any other authorised person which states that the political party is in alliance with another political party; and
 - (e) a deposit of M8000.00.

(5) If a political party fails to comply with subsections (1) to (4), the political party may be given an opportunity to rectify its submission provided that the rectification is made before the date in the elections timetable for close of nominations.

(6) A rectification referred to in subsection (5) includes the substitution of a candidate and the re-ordering the names on that list.

(7) In the case of an alliance, the declaration has to state that the political parties shall submit a joint list of constituency candidates and a joint proportional representation list and the declaration shall also state that the alliance shall contest elections with one symbol.

(8) The list referred to in subsection (7) shall be rejected if a political party fails to -

- (a) submit necessary declarations;
- (b) declare that it has formed an alliance; and
- (c) ensure that its list does not include candidates who contest constituency elections and/or office bearers, from a different political party.

(9) The Director shall confirm acceptance of the list and post a list of names of political parties whose lists have been accepted at the Commission's head office.

Inspection of lists of candidates for elections under proportional representation

48. (1) By not later than the date stated in the elections timetable, the Director shall give notice that copies of the lists of candidates and accompanying documents submitted by the political parties in terms of section 47 will be available for inspection at the offices of the Commission.

(2) The notice contemplated in subsection (1) shall -

- (a) be in the prescribed form stating the periods and times that the lists will be available for inspection;
- (b) be published in the Gazette; and
- (c) be publicised in the media considered by the Director to be appropriate for ensuring wide publicity of the notice.

(3) Any person is entitled to inspect the lists and the accompanying documentation contemplated at the times and places referred to in the notice.

(4) The Director shall provide a copy of, or an extract from, the list of candidates or documents referred to in subsection (1) on the written request of those political parties registered with the Commission that have submitted candidate lists in terms of section 47(1).

Objection to nominations of candidates on party list

49. (1) An elector, a political party registered with the commission, or the Director, may object to -

- (a) the submission of a list of candidates made in terms of section 47 on grounds that it does not comply with the requirements in that section; and
- (b) the nomination of a candidate on the grounds that the candidate is not eligible to stand as a candidate.

(2) The objection shall be made in the prescribed manner by not later than the date prescribed in the elections timetable.

(3) The Commission shall determine the objection and notify the objector and the political party concerned of its decision by not later than the date prescribed in the elections timetable.

(4) The objector or the political party affected by the decision may appeal against the decision of the Commission to the High Court by not later than the date prescribed in the elections timetable.

(5) If the Commission or the High Court decides that a candidate's nomination does not comply with the provisions of section 47, the Commission or the High Court may permit the political party an opportunity to comply with that section.

Final party lists of candidates for election by proportional representation

50. (1) By not later than the prescribed date in the elections timetable, the Director shall -

- (a) give effect to any decision made by the Commission or the High Court in terms of section 49;
- (b) publish a list of the registered parties entitled to elect candidates for election by proportional representation in terms of section 47;

- (c) publish the final list of candidates for each of those parties; and
- (d) make the lists available for public information at the Office of the Director and at such other places as may be prescribed.

(2) By not later than the prescribed date in the elections timetable, the Director shall issue a certificate in the prescribed form to each candidate on the final list of candidates for election by proportional representation.

Forfeiture of deposit

51. If a political party that contests elections and has submitted a list of candidates under section 47 fails to win a seat, the deposit lodged by it in terms of section 47(4)(e) shall be forfeited to the Crown and paid into the Consolidated Fund.

Part 6 – Preparation Before Voting Day

Appointment of agents during elections

52. (1) ~~In each constituency in which elections are to be held, a candidate or political party registered with the Commission contesting elections may appoint agents to represent them in those elections:~~

Provided that a candidate or a political party is not entitled to appoint -

- (a) more than 2 agents for each voting station;
- (b) more than 2 agents in respect of the office of the returning officer; and
- (c) if a candidate is endorsed by a political party registered with the Commission, the candidate and the political party together are not entitled to more than two agents for each voting station or returning officer's office.

(2) A person is not eligible to be appointed as an agent unless that person is an elector registered in the constituency in which the elections are to

be held.

(3) A candidate or political party registered with the Commission shall notify the Director of any appointment of an agent in the prescribed manner.

(4) If a candidate or political party registered with the Commission terminates the appointment of an agent, the candidate or political party shall notify the Director of the termination.

(5) A person appointed as an agent under this section shall be entitled to such an allowance paid out of the political party campaign funding under section 70 which shall be at such a rate as may be determined by the Commission.

Persons required to undertake an oath of office

53. (1) The Director shall ensure that a person contemplated in subsection (2) signs the prescribed oath of office before the person performs any function in respect of elections.

(2) The following persons shall sign the prescribed oath of office before they perform any function in respect of elections:

- (a) a returning officer and deputy returning officer;
- (b) a voting station manager and deputy voting station manager;
- (c) a voting station officer;
- (d) an official witness;
- (e) a candidate nominated in terms of section 41(6) or 47;
- (f) an agent appointed by a candidate or political party registered with the Commission in terms of section 52; and
- (g) any other person, entitled or authorised to attend while -

- (i) the applications for advance electors are being considered;
- (ii) voting takes place; or
- (iii) the votes are counted.

Printing and distribution of ballot papers for constituency elections and special ballot papers for proportional representation votes.

54. (1) The Director shall ensure that the ballot papers for constituency elections referred to in subsections (2) and (3) are printed in sufficient numbers and distributed to voting stations before voting opens.

(2) The ballot papers shall -

- (a) be included in a book of ballot papers;
- (b) have attached to it, 2 counterfoils with the same serial number;
- (c) be in accordance with Form 5 in Schedule 1; and
- (d) comply with subsection (3).

(3) The names of the candidates nominated for elections in terms of section 41(6) shall be printed on the ballot paper -

- (a) in alphabetical order according to surname; and
- (b) next to each name -
 - (i) the name of the political party and a picture of its registered official symbol, if the candidate is supported by a political party; and
 - (ii) the word "independent" and a picture of the candidate's official symbol, if the candidate is an independent candidate.

- (4) Where a special ballot paper is to be used, it shall –
- (a) be included in a book of ballot papers;
 - (b) be attached 2 counterfoils with the same serial number;
 - (c) be in accordance with Form 6 in Schedule 1; and
 - (d) comply with subsection (5).

(5) The names of the political parties registered with the Commission that have final lists of candidates published in terms of section 50 shall be printed on the ballot paper –

- (a) in alphabetical order according to party's name; and
- (b) next to each name the party's registered official symbol.

Conversion of votes

55. During general elections, constituency votes shall be counted both for the candidate and be converted into party votes.

Voting station manager and returning officer to ensure production of certain instruments of appointment

56. (1) Before the start of voting at a voting station, the voting station manager shall ensure that every electoral official and agent, who is to carry out official functions at the voting station in connection with the elections, shows a letter of appointment to the voting station manager before entering the voting station to begin work during elections.

(2) On the elections day the returning officer shall ensure that every electoral officer and agent, who is to carry out official functions at the office of the returning officer in connection with the elections, shows a letter of appointment to the returning officer before being allowed to enter that office.

Equipment to be provided for the elections

57. (1) The Director shall ensure that all necessary steps are taken to facilitate voting during elections and for the effective conduct of the elections.
- (2) The Director shall ensure that every returning officer is provided with sufficient material and equipment to enable voting to be conducted in an effective and efficient manner.

CHAPTER 5 – ELECTIONS CAMPAIGNS

Application and interpretation of this Chapter

58. (1) This Chapter applies to campaigns of independent candidates and political parties, and reference to “political party” in this Chapter shall be construed as including an independent candidate.
- (2) In this Chapter -
- (a) “campaign period” means the period referred to in section 60(1);
 - (b) “a meeting” includes a procession, rally or demonstration; and
 - (c) “political party” includes its candidates, agent, members and supporters.

Right to campaign

59. A political party registered with the Commission is entitled to conduct elections campaign to enable it to disseminate its intended policies to electors for discussion and consideration.

Campaigning in public

60. (1) A political party registered with the Commission may only campaign in public from the day on which the notice contemplated in section 37(3) or 38(4) is published and until 24 hours before voting begins on the elections day.

(2) An elections campaign may not be conducted in a public place unless the political party registered with the Commission has notified the responsible local authority in writing of the time and venue of the campaign and served a copy of the notice on the police officer in charge of the area.

(3) If 2 or more political parties registered with Commission have given notice under subsection (2) to hold a public meeting at the same venue at a similar time, the political party whose notification was first received by the local authority shall have priority and the local authority shall notify the other political party and arrange another time or venue for its meeting.

Equal treatment of political parties and candidates

61. A public officer and public authority shall give, and be seen to give, equal treatment to political parties registered with the Commission to enable them to conduct their campaigns freely.

Freedom of expression and information

62. (1) Subject to section 63, a political party registered with the Commission is entitled to complete and unhindered freedom of expression and information in the exercise of the right to campaign.

(2) A person shall not be subjected to criminal prosecution for any lawful -

- (a) statement made during an elections campaign; or
- (b) campaign material produced, published or possessed during an elections campaign.

Freedom of assembly

63. Subject only to this Chapter, a candidate for elections and a political party registered with the Commission are entitled to freedom of peaceful assembly in campaigning during the campaign period.

Norms during campaigning

64. (1) Notwithstanding sections 61 and 62, person shall not, in campaigning during elections, act contrary to the commitments, undertakings and stipulations set out in clauses 3 and 4 of the Code.

(2) The political party in power shall take the responsibility to ensure that its candidates and office bearers -

- (a) do not abuse their positions for the purpose of their elections campaigns;
- (b) shall not use government vehicles during elections period except for Ministers and other officials entitled to the use of such government vehicles.

Access to public facilities

65. The Government and its agencies shall make public facilities available to a political party registered with the Commission on the basis of equal charges for use of such facilities during the campaign period.

Prohibited places for campaigning

66. A person shall not hold a campaign meeting under this Act in the following premises:

- (a) the premises reserved for use by the Defence Force or the Police Service, for official duties or for residence;
- (b) the premises of public institutions and workplaces during normal working hours; and
- (c) the premises of educational institutions during classes.

News broadcasts and reports

67. (1) A political party registered with the Commission shall have the right to have the substance of its campaign propaganda reported on news

broadcasts of the Government-owned media and in any newspaper in circulation in Lesotho:

Provided that in the case of news broadcasts by Government-owned media -

- (a) the content of the news shall be professionally determined by that media;
- (b) the media shall maintain neutrality in the manner of reporting the news of the campaign propaganda of a political party registered with the Commission and generally in its commentaries; and
- (c) the Commission shall monitor the news broadcasts and shall ensure news coverage of the campaigning by the political parties registered with the Commission.

(2) The Commission shall, by arrangement with the Government-owned media, allocate time on the radio and television during which political parties may be allowed to speak or appear in campaigning for elections and the Commission shall determine the allocation of time to each political party.

(3) For the purposes of this section, "campaign propaganda" means any activity, statement, appearance or any other form of expression aiming directly or indirectly at promoting votes for any candidate or a political party registered with the Commission contesting in the elections.

(4) No political party registered with the Commission may broadcast commercial advertisements for its campaign on Government-owned media.

Publications

68. If a political party registered with the Commission publishes campaign materials in the form of books, booklets, pamphlets, leaflets, magazines or newspapers during the campaign period, it shall identify itself in the publication.

Campaign posters

69. (1) A local authority shall, in consultation with the Commission, designate places where elections education materials and campaign materials of political parties registered with the Commission may be posted.

(2) Political parties registered with the Commission shall be given equal access to the places designated in subsection (1).

Political party campaign funding

70. (1) For the purpose of financing its campaign, a political party registered with the Commission may raise donations from any person or organisation in or outside Lesotho.

(2) A source of funds or donation exceeding M200,000 or such amount as the Commission may, by notice published in the Gazette, determine, shall, within a period of 7 days of its receipt, be disclosed to the Commission by the Treasurer of the political party concerned.

(3) Funds and donations shall be deposited into and elections expenses paid from, the bank account contemplated in section 24(6)(k).

(4) A political party registered with the Commission shall be entitled to funding from the Consolidated Fund for the purpose of campaigning and payment of party agents.

(5) A political party campaign funding from the Consolidated Fund shall be allocated to political parties in the following manner -

- (a) in respect of a political party which participated in the last elections, the funding shall be based on the number of votes gained in the last elections on condition that the votes gained were not less than the threshold required for registration with the Commission;
- (b) in respect of a political party registered with the Commission which did not participate in the last elections, the funding shall be based on the threshold requirement for registration with the Commission; and

- (c) in respect of political parties which have formed an alliance, funding shall be allocated to each political party.

Political party funding

71. (1) A political party which participated in the elections shall be entitled to funding from the Consolidated Fund on annual basis depending on the number of seats it has in the National Assembly.

(2) For the purpose of this section, "political party" includes an independent candidate.

Determination and accountability of funds

72. (1) This section only applies to funds received from the Consolidated Fund.

(2) The amount of funds to be allocated in terms of section 70 or 71 shall be determined by the Commission.

(3) Any funds received by a political party registered with the Commission in terms of section 71 for contesting elections -

- (a) may be used only to defray expenses incurred in contesting elections, including the propagation of the political parties or candidate's views and elector education; and
- (b) may not be used to -
 - (i) defray personal expenditure not related to contesting elections;
 - (ii) pay a fee, reward, benefit or remuneration to any candidate or officer of a political party;
 - (iii) reward any elector in order to vote or to vote in a certain manner; and

- (iv) directly or indirectly invest in any business or property.

(4) Any funds received by a political party registered with the Commission in terms of section 71 shall only be used for politically related activities.

(5) A candidate or political party registered with the Commission that has received funds shall -

- (a) maintain a separate bank account and place all funds received into that account;
- (b) keep records of all transactions in respect of that account;
- (c) provide the Commission with a financial statement and report in the prescribed manner within a period of 6 months after the declaration of the results of elections;
- (d) in respect of funds received in terms of section 71, provide the Commission with a financial statement and report in the prescribed manner within a period of 3 months after the end of the financial year; and
- (e) not receive any further funds in terms of section 71 until paragraph (d) has been complied with.

(6) In order to ascertain that the provisions of this section are being duly observed or to investigate any alleged contravention of those provisions, the Director may -

- (a) enter any premises without previous notice and peruse any records, books, accounts or other documents;
- (b) seize or make copies of any records, books, accounts or documents;
- (c) question any person who may be able to give information;

- (d) require the production of any records, books, accounts or other documents; and
- (e) require the attendance of any person for the purpose of paragraph (c) or (d).

(7) The Commission shall prepare a separate report and audited statements in respect of the funds allocated in terms of sections 70 and 71 the report shall include -

- (a) the amounts allocated to a political party registered with the Commission and candidates;
- (b) any failure by a political party registered with the Commission or candidate in receipt of funds under the provisions of this section to comply with those provisions or prescribed terms and conditions;
- (c) the steps taken by the Commission to -
 - (i) monitor the proper use of funds allocated under sections 70 and 71;
 - (ii) investigate any alleged contravention in the use of the funds; and
 - (iii) recover any funds from any political party or candidate that has contravened the provisions of section 70 or 71 or any prescribed terms and conditions.

(8) The Commission may recover any amount contemplated in subsection (7) by civil action.

(9) The Commission may refuse to allocate funds to a political party registered with the Commission or candidate during elections if -

- (a) the political party or candidate has contravened any provision of section 70;

- (b) the political party includes any officers of the party who have contravened a provision of section 70; and
- (c) the candidate is or was an officer of the political party that has contravened a provision of section 70.

(10) Before making a decision to refuse an allocation of funds referred to in subsection (9), the Commission shall afford the candidate, officer or political party registered with the Commission a reasonable opportunity to make representations -

- (a) on whether or not the candidate, officer or the political party contravened the provisions of section 70; and
- (b) why the Commission should not refuse to make the allocation.

(11) A political party registered with the Commission which, or a candidate or an officer who, contravenes this section commits an offence and is, on conviction, liable to a fine of M10, 000 or to imprisonment for a term of 12 months or both.

CHAPTER 6 – VOTING

Part 1 – Advance elector

Who can vote as an advance elector

73. (1) An elector may apply to vote as an advance elector if the elector is not able to vote on the elections day at the voting station allocated to the elector in terms of section 7(1)(e) because the elector -

- (a) is a public officer employed in the service of the Government of Lesotho in another country;
- (b) is the dependant or employee of such an officer and who resides with the officer in that other country;
- (c) is a public officer who will be outside Lesotho on official duty on the elections day;

- (d) is a candidate or agent;
- (e) will be carrying out official elections duties as an electoral officer, a police officer or a member of the Defence Force; or
- (f) will be performing the functions of an elections observer, journalist, medical personnel or security personnel on the elections day.

How to make an application to vote as an advance elector

74. (1) An application contemplated in section 73 shall -

- (a) be made in the prescribed form; and
- (b) be served on the appropriate voting station manager contemplated in subsections (2), (3) and (4) in the period prescribed in the elections timetable.

(2) If the application to vote as an advance elector is made in Lesotho, the appropriate voting station manager for advance electors is the returning officer for the constituency in which the advance elector is registered.

(3) If the application to vote as an advance elector is made by a police officer, a member of the Defence Force and the staff of the Commission, who will be on official duty on the elections day, the appropriate voting station manager is -

- (a) the returning officer for the constituency in which the advance elector is registered; or
- (b) the voting station manager for advance electors appointed by the Director.

(4) The appropriate voting station manager is the person contemplated in section 152(1)(b) if the applicant to vote as an advance elector is -

- (a) public officer employed in the service of the

Government of Lesotho in another country; or

- (b) is the dependant or employee of such an officer and who resides with the officer in that other country or at some other place outside Lesotho.

(5) An application under this section shall be signed by the applicant in the presence of another elector who shall sign the application as a witness.

(6) If an application is made by a person who is unable to read or write, the application form may be completed and signed on the person's behalf by an elector in the presence of the applicant and a second elector, who shall sign the application as a witness and certify the presence of the applicant.

Decision concerning application to vote as an advance elector

75. (1) On receipt of an application contemplated in section 73, the voting station manager contemplated in subsections (2), (3) or (4) of that section shall -

- (a) approve the application if -
 - (i) it complies with the requirements referred to in subsection (2); and
 - (ii) the voting station manager is satisfied that the statements in the application are true.
- (b) reject the application because it does not comply with the requirements referred to in subsection (2).

(2) The requirements for a valid application to vote as an advance elector are:

- (a) the applicant has proof of identity;
- (b) the applicant is registered on the electors' register for the relevant constituency;

- (c) the application is in the prescribed form; and
- (d) the application was signed by the elector in the presence of another elector who has signed the application as a witness.

(3) If the voting station manager receives 2 or more applications that appear to have been made by the same elector, the voting station manager shall -

- (a) compare the applications; and
- (b) if satisfied that the applications have been made by the same elector, deal with the earliest completed application that meets the requirements referred to in subsection (2) and reject all other applications from the same elector.

(4) If an application is rejected under this section, the voting station manager shall, by notice -

- (a) inform the applicant of the reasons for the rejection;
and
- (b) if the period during which an elector may make an application to vote as an advance elector has not expired, invite the applicant to make a fresh application to vote as an advance elector.

(5) On the day specified in the elections timetable and after the candidates and agents present have inspected the applications, the returning officer shall certify, in the prescribed form, the number of advance electors approved for each constituency.

(6) The returning officer shall invite the candidates and agents to satisfy themselves that the certificate is in order and to sign the certificate confirming that fact.

How advance electors may cast their votes

76. On the day specified in the elections timetable for advance voting and after the elector has produced the elector's registration card, the appropriate voting station manager contemplated in section 74(2), (3) and (4) shall conduct the voting in accordance with the provisions of this Act and its regulations.

Functions of Director, voting station manager for advance electors and returning officers after voting

77. (1) Director to provide a list of applicants accepted as advance electors to political parties.

(2) If a voting station manager for advance electors has been appointed in terms of section 74(3)(b), the voting station manager shall, for each constituency, fasten the covering envelopes and then arrange for them to be sent in the prescribed manner to the returning officers concerned.

(3) When a returning officer for a constituency receives a covering envelope from a voting station manager referred to in subsection (2), the returning officer shall open the covering envelope and place the sealed envelope containing the ballot papers into the ballot boxes containing the advance votes cast in the constituency.

(4) The returning officer shall arrange for the delivery of the ballot boxes containing the advance votes in respect of a voting station to the voting station manager of that station in the prescribed manner.

Functions of voting station manager on receiving ballot boxes and ballot accounts relating to voting by advance electors.

78. A voting station manager who receives ballot boxes and a ballot account delivered under this section shall, until the counting of votes at the voting stations -

- (a) keep those articles in a place of safe custody and under guard; and
- (b) allow those candidates and agents who wish to do so to keep those articles under observation.

What happens if an advance elector dies before the elections day

79. If an advance elector dies after having voted but before the elections day, that elector's vote is not invalidated by reason of the elector's death.

Part 2 – Voting Day**Voting for all constituencies to be held on the same day**

80. Except as provided for in this Act, voting in general elections shall be conducted in every constituency on the elections day.

Hours for voting at voting stations

81. (1) A voting station shall open at 7 a.m. and voting shall begin as soon as possible thereafter and the station shall close at 5 p.m., except as otherwise provided under this Part.

(2) Notwithstanding subsection (1), the voting station manager for a voting station shall allow any person to vote who wishes to vote and is in the queue of the voting station at 5 p.m. and the period for voting shall be extended until those persons have voted.

Who can vote during elections

82. (1) An elector is entitled to vote if -

- (a) the elector's name is included in the electors' register for the voting station; and
- (b) subject to subsection (2), the elector is in possession of an elector's registration card issued in terms of section 7(1)(f).

(2) An elector whose name appears in the electors' register for a voting station but who is not in possession of an elector registration card if the card is lost or destroyed shall provide -

- (a) a sworn affidavit attesting to the loss or destruction of

the card and the circumstances in which it was lost or destroyed;

- (b) proof that the card has been defaced; and
- (c) proof of identity in the form of a passport, a driver's licence or verification by an official witness.

(3) Even though an elector's name appears on an electors' register for a constituency, the elector is not entitled to vote in the constituency if the person has ceased to be qualified as an elector under section 5.

Where an elector may vote

83. (1) An elector may only vote at the voting station allocated to the elector in terms of section 7(1)(e) -

- (a) except as provided for under subsection (2); or
- (b) unless the elector is entitled to vote as an advance elector.

(2) ~~A returning officer may, in the prescribed form, authorise an elector to vote at a voting station other than the one allocated in terms of section 7(1)(e) if -~~

- (a) the elector is an electoral officer, police officer or member of the Defence Force who will be on duty on the elections day at a voting station other than the one allocated to the elector;
- (b) the voting station is within the constituency;
- (c) the elector has applied in the prescribed form; and
- (d) the application is made no later than seven days before the elections day.

(3) On issuing the prescribed form contemplated in subsection (2), the returning officer shall arrange for a copy of the form to be delivered to the

voting station manager at the voting station to which the elector is allocated under section 7(1)(e).

(4) On receiving the copy of the form contemplated in subsection (2), the voting station manager at the voting station to which the elector is allocated in terms of section 7(1)(e) shall amend the certified copy of the electors' register by cancelling the elector's entry in the register.

(5) On presentation of the form to the voting station manager at the voting station where the elector is on duty or, if the elector is the voting station manager, the deputy voting station manager, the voting station officer shall enter the elector's name and identifying number on the certified copy of the electors register.

(6) Section 84 applies, with the changes required by context, to the conduct of voting by an elector who presents a form under subsection (5).

What an elector shall do before being allowed to vote

84. (1) An elector may only vote once in respect of a candidate in constituency elections and the elector's constituency vote will be dealt with in line with section 55.

(2) Subsection (1) applies even if -

(a) the elector's name appears -

(i) on more than one electors' register; or

(ii) more than once in the same electors' register.

(b) the person has voted as an advance elector during elections.

(3) Except in the case of an elector who has no hands, the voting station manager shall refuse to issue a ballot paper to an elector who refuses to display the elector's hands to a voting station officer for inspection in order to enable the voting station officer to determine whether or not an elector has already voted during elections.

(4) Except as provided for under this section, no enquiry may be made during elections as to the identity of a person claiming to be an elector or as to the person's right to vote.

(5) Before allowing a person to vote during elections, the voting station manager may and, if so requested by a candidate, agent or official witness, shall require the person to declare on oath -

- (a) that the person is -
 - (i) the elector whose name appears on the electors' register; or
 - (ii) registered in the constituency and voting station and has adequate proof of registration.
- (b) that the person has not voted during elections as an advance elector or at another voting station.

(6) The voting station manager shall refuse to issue a ballot paper to any person who refuses to comply with a requirement made under subsection (5).

(7) Unless an elector complies with subsection (8), the voting station manager shall refuse to issue a ballot paper to the elector if -

- (a) the elector claims to be entitled to vote in the name of another elector recorded on the electors' register; and
- (b) a candidate or agent declares under oath before the voting station manager that it is impossible for the person with that name to be present at the voting station because that person is -
 - (i) dead;
 - (ii) incapacitated by sickness, physical disability or other cause to attend; or
 - (iii) absent from Lesotho.

(8) In order to comply with this subsection, the elector referred to in subsection (7) shall, after the voting station manager has read to the elector the declaration referred to in that subsection, make a declaration on oath before the voting station manager to the effect that -

- (a) the elector is in fact the person whose name appears on the electors' register concerned or who is registered for that constituency;
- (b) the statements made in the declaration are true; and
- (c) the elector has not yet voted during elections as an advance elector or at any voting station in that or any other constituency.

(9) Even though an elector has made a declaration in accordance with subsections (5) or (8), the voting station manager shall refuse to issue a ballot paper to the person if -

- (a) an official witness at the voting station has made a further declaration contradicting the person's declaration;
- (b) that officer believes the official witness's declaration;
or
- (c) as a result of inquiries made under subsection (10), the voting station manager is not satisfied as to the truth of the person's declaration in a material respect.

(10) The voting station manager at a voting station may make inquiries at any other voting station in any constituency for the purpose of verifying a declaration made by a person in accordance with this section.

(11) The voting station manager may direct any police officer on duty at the voting station to arrest, without warrant, any person whom the voting station manager suspects on reasonable grounds of -

- (a) having made a false declaration; or

- (b) having committed or attempting to commit the offence of impersonation.

How voting at a voting station is to be conducted

85. (1) Voting at a voting station is to be by secret ballot and, as far as practicable and subject to this act, is to be conducted in accordance with this section.

(2) A person wishing to vote at a voting station shall personally apply for a ballot paper at the voting station.

(3) A voting officer at the voting station shall -

- (a) ascertain by reference to the relevant extract of the certified copy of the electoral list for the constituency concerned, whether the applicant's name appears on the list or ascertain by reference to the applicant's or elector's registration card, whether the applicant has been registered for that constituency; and
- (b) satisfy himself or herself by inquiring and by inspecting the applicant's hands that no ballot paper has previously been issued to the applicant at that or another voting station during elections.

(4) After complying with subsection (3), the voting station officer shall -

- (a) enter on a counterfoil attached to the ballot paper that is to be issued to the applicant the applicant's identifying number as recorded in the electoral list or as indicated by the applicant's proof of registration;
- (b) tear the ballot paper from the corresponding counterfoil;
- (c) stamp the official mark on the back of ballot paper;
- (d) hand the ballot paper to the applicant; and

- (e) draw, where appropriate, a line in ink through the applicant's name and identifying number as recorded in the relevant extract of the certified copy of the electoral list.
- (5) On receiving the ballot paper the applicant shall -
 - (a) take the ballot paper to a vacant voting compartment in the voting station;
 - (b) vote by placing a tick or a cross, in the square adjacent to the name of the candidate for whom the applicant wishes to vote;
 - (c) fold the ballot paper in such a manner that -
 - (i) the serial number on the ballot paper is invisible without revealing the party for which, or the candidate for whom, the applicant has voted;
 - (ii) the official mark on the back of the ballot paper is visible;
 - (d) hand the folded ballot paper to the voting station manager or the voting station officer in charge of the ballot box to recognise the ballot paper, by comparing the serial numbers, and checking the official mark at the back, tear off the counterfoil with the serial number, put it in a ballot envelope and hand back the folded ballot paper to the applicant to place in the ballot box and then leave the voting compartment;
 - (e) allow a voting station officer to apply an indelible mark on the finger; and
 - (f) in the presence of the voting station officer, place the ballot paper in the ballot box.
- (6) The applicant shall leave the voting station immediately after

voting.

(7) A person shall not, except as provided for under this Act, approach, interfere with, speak to or assist a person wishing to vote during elections from the time the person has entered the voting station to vote until the person leaves the voting station.

(8) The voting station manager shall ensure that, except as provided for under section 86, no more than one person is present in the same voting compartment at the same time.

(9) In any legal proceedings under this Act, evidence that a line was drawn through the name and identifying number of a person whose name appears on an electoral list is evidence that the person has received a ballot paper for the purpose of voting during elections concerned.

(10) If, at the close of the elections day, the following day is also an elections day, the voting station manager shall, immediately after the close of voting -

- (a) ensure that the ballot boxes and the electors' register and other documents relating to the elections are kept in a place of safe custody and under guard; and
- (b) allow any other candidates or agents or authorised representatives of political parties who endorsed any of those candidates who wish to do so to keep those boxes, electors' register and documents under observation.

When a person may assist an elector

86. (1) If an elector claims to be incapacitated from voting in the prescribed manner by blindness or any other physical cause, the elector may request the voting station manager to permit the elector to -

- (a) vote using the prescribed template for blind electors; or
- (b) vote with the assistance of a person accompanying the elector.

(2) A voting station manager shall permit an elector to vote with the assistance of a person accompanying the elector if the voting station manager is satisfied -

- (a) that the person accompanying the elector is a relative or friend of the elector; and
- (b) that the elector is incapacitated in the manner referred to in subsection (1).

(3) If permission is granted under this section, anything which is required in terms of this Act to be done to or by an elector with respect to voting may be done to or with, the assistance of the person accompanying the elector, except that that person shall mark the ballot paper issued to the elector in accordance with the elector's wishes.

Functions to be performed by a voting station manager before voting begins

87. (1) Before voting begins on the elections day, every voting station manager at a voting station shall -

- (a) allow the electors at the beginning of the queue to enter the voting station in order to witness the events contemplated in subsections (b) to (d);
- (b) show the ballot boxes open and empty to all the persons present;
- (c) close the ballot boxes and seal them with a seal; and
- (d) allow those candidates and agents who wish to affix their seals to the boxes to do so.

(2) A voting station manager shall ensure that, as far as practicable, the voting station is opened for voting at the time voting is required to begin under this Act.

Powers of voting station manager and other officers at the voting station

88. (1) While voting is taking place, the voting station manager shall -
- (a) keep order at the voting station;
 - (b) regulate the number of electors to be admitted to the voting station at any particular time; and
 - (c) ensure that persons, other than those referred to in section 93, are excluded from the voting station.
- (2) A deputy voting station manager, any official witness or voting station officer on duty at a voting station, may exercise the powers of a voting station manager conferred under subsection (1) if directed to do so by the voting station manager.
- (3) The voting station manager may request a person to leave a voting station -
- (a) if the person is not a person referred to in section 93; or
 - (b) if the person is creating a disturbance at the voting station.
- (4) A police officer may, at the request of the voting station manager, arrest without warrant a person who fails to comply with a request under subsection (3).
- (5) The voting station manager at a voting station may, after consultation with any police officer on duty at the station while proceedings concerning the conduct of elections are in progress, take any steps which the voting station manager considers necessary -
- (a) for the protection of persons who are carrying out official functions at the station; or
 - (b) for stopping or preventing a riot or violence at or near the station.

(6) The powers conferred under this section shall, as far as practicable, be exercised in such a way as not to prevent an elector who is entitled to vote during elections from voting.

What happens when voting is interrupted or obstructed

89. (1) If voting at a voting station is so seriously interrupted or obstructed by riot or violence that it is impossible to continue with voting, the voting station manager shall, in consultation with any police officer on duty at the station, adjourn the voting until voting at the station can be resumed.

(2) If voting at a voting station is seriously delayed or cannot take place on the elections day because of problems related to the supply of equipment necessary for the conduct of the elections or for other reasons, the Director may adjourn voting until voting at the voting station can begin.

(3) If, at the time when voting is due to finish, voting is still adjourned, the voting station manager shall adjourn voting to the next day so that voting may begin or be resumed.

(4) If voting has not begun or is not completed on the next day, the voting station manager may adjourn voting at the voting station from day to day until electors who wish to vote at the station have been able to do so without interruption or obstruction.

(5) When voting has been adjourned, voting is to begin or resume at 7 a.m. on each day for so long as may be necessary that day to allow the electors who still wish to vote at the voting station to do so.

Functions of voting station manager when voting is adjourned

90. If voting conducted at a voting station on the elections day is to be resumed on the following day, the voting station manager shall -

- (a) seal the opening of each ballot box through which ballot papers have been placed with the seal provided for that purpose and allow the candidates and agent to affix their seals if they wish to do so;

- (b) arrange for the ballot boxes and the documents relating to the elections to be kept in safe custody and under guard, and allow the candidates and agents to keep those ballot boxes and documents under observation if they wish to do so, until the time when voting is to resume the next day;
- (c) immediately before the time for the resumption of voting -
 - (i) inspect the seals on the ballot boxes and record any tampering with them;
 - (ii) allow the candidates and agents to inspect those seals; and
 - (iii) re-open the openings in the ballot boxes.

Fresh ballot paper to be given to an elector who spoils a ballot paper at a voting station

91. (1) An elector may, return a ballot paper to the voting station manager if the elector has accidentally -

- (a) spoiled a ballot paper;
- (b) voted for a candidate or a political party for whom the elector does not wish to vote; or
- (c) done something on the ballot paper which could lead to its rejection.

(2) If satisfied that it was an accident, the voting station manager shall deal with the spoiled ballot paper in the prescribed manner.

What happens when another person has voted in an elector's name

92. (1) A voting station manager may issue an elector with a ballot paper if -

- (a) the elector seeks to vote after another person has voted in that elector's name as shown by the marked certified copy of the electors' register;
- (b) the elector submits proof of being an elector and proof of identity; and
- (c) the elector declares on oath in the prescribed form that the applicant has not yet voted during the elections in that or any other constituency.

(2) On being issued with a ballot paper under subsection (1), the elector shall vote in the same manner as any other elector but shall not place the completed ballot paper in a ballot box.

(3) The ballot paper shall be placed in a ballot paper envelope marked 'tendered ballot paper' in the prescribed manner.

(4) A ballot paper marked as a tendered ballot paper is to be counted only if the High Court orders a scrutiny of votes in terms of section 129.

Persons entitled or allowed to be present during voting

93. Only the following persons are entitled to be present at a voting station during voting -

- (a) the electors entitled to vote at the station and who have not yet voted during the elections;
- (b) a person assisting an elector referred to in section 86;
or
- (c) the persons referred to in section 98.

Part 3 – Determination of the Elections Results

Votes to be counted at voting stations after the close of voting

94. (1) Immediately after the voting station manager has closed the voting station and voting has ceased, the voting station manager shall, in the presence of the candidates and agents -

-
- (a) reconcile the number of ballot papers issued against the number of electors who have been marked as having voted on the certified copy of the electors' register;
 - (b) open the ballot boxes;
 - (c) mix the ballot papers from those ballot boxes with the advance ballot papers contemplated in section 78; and
 - (d) direct the voting station officers to count, separately, the number of votes recorded for each of the candidates in respect of the constituency elections.
 - (2) The voting station officers shall -
 - (a) check the ballot papers to determine if they bear the official mark;
 - (b) hand the ballot papers which do not bear the official mark to the voting station manager; and
 - (c) place the ballot papers face upwards and count the number of votes recorded for each candidate.
 - (3) A voting station officer shall refer a ballot paper to the voting station manager for scrutiny if the voting station officer -
 - (a) finds a ballot paper that, in his or her opinion, is liable to be rejected as invalid; or
 - (b) is uncertain as to which candidate a ballot paper should be counted.
 - (4) During the counting of votes under this section, a candidate and agent may object to the allowance or rejection of any ballot paper.
 - (5) The voting station manager shall carefully consider each ballot paper referred to in subsection (3), or objected to in terms of subsection (4), and decide whether it should be rejected or allowed.

(6) If the voting station manager rejects a ballot paper, the voting station manager shall write on the back of the ballot paper the word "rejected" and, if there is an objection to the voting station manager's rejection of a ballot paper, the voting station manager shall add the words "rejection objected to".

(7) If the voting station manager allows a ballot paper referred to in terms of subsection (3) the voting station manager shall write on the back of the paper the word "allowed" and the name of the candidate for whom it is counted and, if there is an objection to the voting station manager's allowance of the ballot, the voting station manager shall add the words "allowance objected to".

(8) After the ballot papers have been counted, the voting station manager shall -

- (a) record on the prescribed form the number of votes cast at the voting station for each candidate in respect of the constituency elections;
- (b) sign the form and invite the candidates and agents to ~~either sign the form or register a protest;~~
- (c) announce and display both inside and outside the station, the results of voting at the station;
- (d) arrange for the form and the results of voting to be conveyed to the returning officer by the quickest available means; and
- (e) provide a copy of the results to each candidate and agent.

Steps to be taken before counting of advance electors' votes

95. (1) When the voting station manager for the voting station has received the ballot boxes for advance electors, the ballot papers and the advance elector's ballot account from the returning officer for the constituency, the voting station manager shall -

- (a) examine whether the seals are in order and record any tampering with them; and
 - (b) give the candidates and agents present at the voting station, an opportunity to do the same.
- (2) After the voting station is closed and the voting ended, the voting station manager shall -
 - (a) open the advance elector's ballot boxes;
 - (b) verify the account in the prescribed manner;
 - (c) check the ballot paper envelopes, if any, in the prescribed manner;
 - (d) open the ballot paper envelopes and remove the ballot papers; and
 - (e) mix the ballot papers with the ballot papers to be counted in terms of section 94.
- (3) If advance electors' ballot account is found to be incorrect the voting station manager shall continue with the count but report the matter to the returning officer.

Rejection of ballot paper as invalid

96. (1) A ballot paper shall be rejected as invalid if -
- (a) the ballot paper does not bear the official mark;
 - (b) the ballot paper contains any writing or mark by which an elector can be identified;
 - (c) the elector has recorded a vote for more than one candidate or more than one political party; or
 - (d) it is not clear from the ballot paper for which candidate or political party the elector voted.

(2) If 2 or more ballot papers are removed from the same ballot paper envelope, those ballot papers are to be rejected as invalid.

(3) A ballot paper envelope shall be rejected as invalid without being opened if it -

- (a) does not bear the official mark of the voting station manager for advance electors; or
- (b) bears any name or signature by which an elector can be identified.

(4) Subject to the provisions of this section, a voting station manager shall allow a ballot paper that bears a mark that is not strictly in accordance with this Act or bears more than one mark, if, in the opinion of the voting station manager or returning officer, the elector's intention is clear.

(5) Subject to section 101(4), the decision of a voting station manager allowing or rejecting a ballot paper may not be questioned except on a scrutiny of votes ordered by the High Court.

Functions of voting station manager after the counting of votes is finished

97. (1) After the results have been announced at a voting station, the voting station manager shall -

- (a) prepare a ballot account in the prescribed form;
- (b) sign the ballot paper account;
- (c) invite the candidates and agents to sign the account;
- (d) sign the results form and invite the candidates and agents to sign the form or register a protest;
- (e) give a copy of the completed results form to each candidate or agent and display the result at a conspicuous place at a voting station; and
- (f) if a candidate or agent refuses to either sign the form

referred to in this section or to register a protest, that candidate or political party represented by that agent may not challenge the count in respect of that constituency.

(2) Unless the returning officer has given a direction under section 100, the voting station manager shall, on the same day as the results are announced -

- (a) enclose all the items and documents used at the voting station in the prescribed packets and in the prescribed manner; and
- (b) deliver the packets and ballot boxes used during the elections to the returning officer -
 - (i) under the escort of a police officer; and
 - (ii) if the candidates and agents wish to accompany that escort, in the company of those candidates or agents.

(3) If the voting station manager does not deliver the prescribed packets in terms of subsection (2)(b), the voting station manager shall arrange for the deputy voting station manager or a voting station officer to do so.

(4) Notwithstanding subsection (2), the returning officer may permit a voting station manager to deliver the prescribed packets the day following the announcement of the results, in which case, the voting station manager shall, until delivery is made -

- (a) ensure the prescribed packets are kept in a place of safe custody and under guard; and
- (b) allow any of the candidates or agents who wish to do so to keep those packets under observation.

(5) After receiving the packets referred to in subsection (2) and until the returning officer has announced the results in terms of section 101, the returning officer shall -

- (a) ensure that the packets are kept in a place of safe custody and under guard; and
- (b) allow any of the candidates or agents who wish to do so keep those packets under observation.

Who may be present at the office of the returning officer during elections proceedings

98. Only the following persons may be present at the office of the returning officer while voting and counting is taking place:

- (a) a Commissioner;
- (b) an electoral officer;
- (c) a police officer;
- (d) a candidate and an agent;
- (e) an election observer; and
- (f) any other person authorised by the Director to be present.

Powers of a returning officer

99. (1) A returning officer may request a person to leave the office while voting or counting is taking place -

- (a) if the person is not a person referred to in section 98; or
- (b) if the person is creating a disturbance in the office.

(2) A police officer may, at the request of the returning officer, arrest, without warrant, a person who fails to comply with a request under subsection (1).

(3) The returning officer may, after consultation with any police officer on duty, take any steps considered necessary -

- (a) to protect persons carrying out their official functions;
or
- (b) to stop or prevent a riot or violence at or near the office
of the returning officer.

Verification of ballot accounts

100. (1) The returning officer for a constituency shall open the packets containing the ballot accounts and verify that the ballot accounts are completed correctly.

(2) If a ballot account is found to be incorrect, the returning officer shall report the matter to the Director.

Recounting of votes

101. (1) Before the results of elections for the constituency are declared, the returning officer, after consultation with the Director -

- (a) may order a recount; and
- (b) shall order a recount if -
 - (i) the candidates with the most votes receives an equal number of votes;
 - (ii) a candidate or political party registered with the Commission requests it;
 - (iii) the Director directs for a recount; or
 - (vi) the High Court directs a recount.

(2) If the prescribed packets contemplated in section 97(1) for a voting station are stolen or lost, the votes recorded for each candidate at the voting station and announced in terms of section 94 shall be taken to be the number of votes recorded for the candidate in any recount unless the High Court orders otherwise.

(3) In arranging for a recount of the ballot papers under this section, the returning officer shall ensure that, as far as practicable, the requirements of this Part with respect to the counting of votes are followed.

(4) If a recount is carried out, all ballot papers referred or objected to in the first count are to be dealt with afresh as if they had not been rejected or allowed by the voting station managers.

Declaration of the results of elections in a constituency

102. (1) When the counting of votes, including any recount under section 101(1), is completed in accordance with this Part, the returning officer for the constituency concerned shall -

- (a) record on the prescribed elections results form the number of votes recorded for each candidate in respect of the constituency elections;
- (b) sign the elections results forms;
- (c) invite the candidates and agents to sign the forms;
- (d) notify the Director and the area electoral officer of the results;
- (e) subject to any ruling to the contrary by the Director, announce, both inside and outside the returning officer's office, the results of the elections in that constituency, including the number of votes recorded for each candidate;
- (f) deliver copies of the elections results forms to the Director and the area electoral officer as quickly as possible; and
- (g) arrange for the copy of the signed results to be posted in a conspicuous place on the outside, or in the immediate vicinity of the office of the returning officer.

(2) Any announcement by the returning officer under this section

is provisional.

(3) Unless there is a recount ordered by the High Court in terms of sections 101 or 103, the returning officer shall arrange for the prescribed packets and ballot boxes delivered in terms of section 97 to be delivered to the Director as soon as practicable.

A tie in constituency elections

103. (1) If a recount in terms of section 101 results in a tie, the Commission shall refer the matter to the High Court for determination.

(2) The High Court shall -

(a) order for a recount; and

(b) determine the validity of any disputed ballot papers.

(3) If the recount results in a candidate having more votes than any other candidate, the High Court shall declare that candidate to be the duly elected member of the National Assembly for the constituency.

~~(4) If the recount results in a tie, the High Court shall order fresh elections for the constituency.~~

(5) For the purposes of this section, the High Court may order a scrutiny of votes recorded during the elections and may make any ancillary order it considers appropriate.

Allocation of party seats in accordance with proportional representation

104. (1) After all constituency votes have been declared in accordance with section 102, the Commission shall convert the constituency candidates votes into national political party votes in terms of section 55.

(2) In converting the candidates' votes into political party votes, the Commission shall take into consideration the special ballot papers contemplated in sections 44 and 45.

(3) The 40 seats contemplated in section 57(1)(c)(ii) of the Constitution as amended shall be allocated between the political parties in accordance with the formula contained in Schedule 3.

(4) The allocation of seats takes place at general elections only and the results of any fresh elections or by-elections for a constituency seat between general elections shall not affect the allocation of seats under this section.

Allocation of proportional representation seats to candidates on the party list

105. (1) The seats allocated in terms of section 104 to each party shall be filled by the candidates on the party list in order of preference.

(2) The next candidate in order of preference is allocated the seat if a candidate higher up in the list -

- (a) is elected in constituency elections;
- (b) withdraws as a candidate before the seat is allocated in terms of section 104; or
- (c) dies before the seat is allocated in terms of section 104.

Determination, declaration and publication of final results of general elections

106. (1) The Commission shall determine and declare the results of general elections by -

- (a) declaring the names of the successful candidates elected in each constituency;
- (b) allocating seats to the political parties in terms of section 104 read with the provisions of Schedule 3; and
- (c) identifying the successful candidates on the list referred to in section 50 on the basis of priority contemplated in sections 47 and 104 after removing

names of candidates who may have been elected to a constituency or withdrawn their candidacy.

(2) The allocation of seats to political parties referred to in section 104 is final and shall remain the allocation of seats until the next general elections notwithstanding -

- (a) failed elections contemplated in section 44; and
- (b) by-elections or fresh elections in a constituency seat held in terms of section 44.

(3) Notwithstanding subsection (2) the Commission, a political party which participated in the elections or a candidate may apply to the High Court for a re-allocation of the seats referred to in section 104 if it is in the interest of fair elections.

(4) The Commission shall determine and declare the results of general elections within seven days of the elections date.

(5) If the Commission is unable to determine and declare the results of general elections within the seven day period, the Commission shall apply to the High Court for an extension of the period.

(6) The High Court may, on good cause shown, extend the period within which the Commission shall declare the results of general elections.

(7) After the declaration of the results, the Commission shall publish in the Gazette the full names, addresses and occupations of the members elected -

- (a) in each constituency together with the names of their constituencies;
 - (b) by proportional representation; and
 - (c) inform the Speaker of the particulars of those members.
- (8) Subject to any determination by the High Court to the contrary,

a declaration of results under this section is final.

Returns as to elections expenses

107. (1) 50 days after the publication of the results of general elections a political party registered with the Commission shall transmit to the Director a return in the prescribed form, containing a statement of all expenses incurred in contesting the elections together with all bills and receipts.

(2) The statement shall contain -

- (a) an account of personal expenses, if any, paid by the political party; and
- (b) an account of all monies received by the political party or any person on behalf of the political party for the purposes of elections expenses incurred, with a statement of every payment and from whom they were received.

(3) A political party which fails to return or knowingly, makes a false declaration under this section commits an offence and is liable on conviction to a fine of M10,000 or to imprisonment to a term of 12 months or both and where a political party is sentenced to imprisonment the sentence shall be served by the person responsible for the false declaration.

Functions of the Director with respect to packets containing elections documents

108. (1) The Director shall retain in a place of safe custody, the ballot boxes and prescribed packets delivered in accordance with section 97 (2) (b) until the elections can no longer be challenged.

(2) If the Director is satisfied that the elections can no longer be challenged, the Director, unless a court of competent jurisdiction directs otherwise, may -

- (a) arrange for those packets to be destroyed; or
- (b) retain some or all of the material for administrative or research purposes.

Entitlement of members of the public to inspect certain elections documents

109. (1) The Director shall, for a period of 12 months after the elections period concerned, make available for public inspection the contents of all packets received by the Director under this Act that contain -

- (a) marked copies of the electors' register and certificates presented at voting stations;
- (b) the ballot accounts from voting stations and advance electors' ballot accounts;
- (c) declarations of secrecy and the documents of appointment, if any, of electoral officers and agent handed to voting station managers and returning officers;
- (d) any declarations on oath made in terms of section 84; and
- (e) the applications of persons who applied to vote as advance electors.

(2) Any person who attends the office of the Director during ordinary business hours is entitled, without charge, to inspect and make a copy of any document referred to in subsection (1).

Packets containing ballot papers and ballot paper envelopes not to be opened except in accordance with an order of court

110. (1) Subject to section 101(1) (b), a person may not, except under an order of the High Court -

- (a) open a sealed ballot box, packet of ballot papers or packet of envelopes or a selected packet of counterfoils of used ballot papers; or
- (b) inspect or allow another person to inspect ballot papers, ballot envelopes or counterfoils removed from such a packet.

(2) The High Court may grant an order under subsection (1) if satisfied by evidence on oath that the inspection of a particular ballot paper, ballot envelope or counterfoil is required for the purpose of -

- (a) prosecuting a person for an offence against this Act; or
- (b) determining an elections petition.

(3) An order under subsection (2) may be made subject to such conditions as the court considers appropriate.

(4) An order under this section may be made by a Judge in chambers.

Production of elections documents in court proceedings

111. (1) If a court makes an order requiring the Director to produce a document in the Director's possession relating to any specified elections, the production by the Director of the document in the manner directed by the court, is conclusive evidence that the document relates to those elections.

(2) An endorsement appearing on a packet of ballot papers or ballot paper envelopes produced by the Director is evidence of the contents of the packet.

Powers of the Commission to rectify errors or omissions

112. (1) If there is a delay, error or omission in the preparation, issue, sending or return of electors' register, ballot paper, ballot paper envelope or other documents used for the purposes of elections, the Commission may, by proclamation published in the Gazette, specify what action is to be taken to rectify the matter.

(2) When the action specified in such a proclamation has been taken, the validity of the elections may not to be questioned on account of the delay, error or omission.

CHAPTER 7 – ELECTIONS OBSERVATION

Meaning of elections observation

113. For the purposes of this Act, “elections observation” means the verification of the various stages of elections by national and international organisations, non-governmental organisations, foreign governments and individuals duly recognised for this purpose in terms of this Chapter.

Scope of elections observation

114. (1) Elections observation may consist of the following activities -

- (a) to observe the registration of electors;
- (b) to observe the course of the campaigning for elections;
- (c) to observe access to and the use of the media;
- (d) to observe the voting and counting of votes;
- (e) to observe the determination of results;
- (f) to verify the impartiality and the functioning of the Commission and its officers in conformity with this Act;
- (g) to verify the impartiality and legality of the decisions taken by the Commission and its officers in settling disputes;
- (h) to verify the voting process; and
- (i) to verify the results of the elections.

(2) Any irregularities noted by elections observers shall be reported to the Commission or to the competent officers of the Commission.

(3) The Commission shall -

- (a) investigate the alleged irregularities; and
- (b) if the irregularities are confirmed, take corrective measures to remedy them.

Period of elections observation

115. The period of elections observation shall begin on the date of the notice published under sections 37(3) or 38(4) and end with the final determination of the results of the elections in terms of sections 105 or 106.

Collaboration by competent authorities

116. The Commission, its officers, public officers and public authorities shall cooperate with elections observers in the performance of their functions under this Chapter and offer to them the guarantees and access to facilities in order to perform those functions.

Recognition of elections observers

117. (1) The Commission shall -

- (a) establish adequate administrative procedures for the proper and timely recognition of the observers;
- (b) devise identity cards for elections observers; and
- (c) issue to every recognised observer an identity card.

(2) The Commission may invite elections observers from any government, organisation or an individual person.

(3) Subject to subsection (4), the Commission may recognise any elections observers from -

- (a) the United Nations Organisation and its agencies, the African Union and its agencies, the European Union and its agencies, the Commonwealth Secretariat, and any international elections organisation;

- (b) foreign governments;
 - (c) non-governmental organisations registered and operating -
 - (i) in Lesotho; or
 - (ii) outside Lesotho;
 - (d) individual observers.
- (4) A person shall not be recognised as an elections observer unless -
- (a) in the case of the first three categories specified in subsection (3), the observer has been designated by the relevant organisation or foreign government in writing to the Commission disclosing the observer's particulars and credentials; and
 - (b) in the case of the category of individual observers, the observer is a person of recognised elections experience and prestige.

Compulsory use of identity cards

118. An elections observer recognised under this Chapter shall, while engaging in the activities contemplated in section 114, display the identity card.

Assistance and support to elections observers

119. (1) An elections observer is entitled -
- (a) if required, to a multiple entry visa to enter and remain in Lesotho for the duration of the period referred to in section 115;
 - (b) to have unimpeded access to all elections events and to observe -

- (i) all aspects of the civic education programmes;
 - (ii) the registration of electors;
 - (iii) the nomination of candidates;
 - (iv) elections campaigns;
 - (v) the voting and the counting of votes; and
 - (vi) any court proceedings open to the public.
- (c) to enjoy freedom of movement throughout Lesotho;
 - (d) to seek and obtain information on any public officer or official organ involved in the conduct of any elections;
 - (e) to communicate freely with any political party and with any organisation or person;
 - (f) to have access to information transmitted by or to the Commission and its officers, on the condition that it does not impede the normal conduct of elections related activities;
 - (g) to have access to complaints and responses about any occurrence or matter relating to the conduct of elections;
 - (h) to have access to offices and facilities for the performance of their functions;
 - (i) to communicate any specific concerns they may have to the members and officers of the Commission; and
 - (j) to communicate to the local and international media.

(2) Elections observers may operate individually or together with other observers of the same or different categories referred to in section 117(3).

Duties of elections observers

120. (1) An elections observer shall have the following duties:
- (a) to exercise their role with impartiality, independence and objectivity;
 - (b) to respect the Constitution and the laws of Lesotho;
 - (c) not to interfere in, or to impede, the normal course of the elections;
 - (d) to maintain the secrecy of the vote; and
 - (e) to provide to the Commission copies of written information and statements which they have produced.

(2) The Commission may revoke the accreditation of any elections observer who breaches a duty laid down in subsection (1) after affording him or her hearing.

(3) If the Commission revokes accreditation, the person ceases to have the rights accorded to an elections observer under this Chapter and that person shall return to the Commission all material provided by the Commission, including the observer's identification card.

Status of diplomats

121. Diplomats accredited to Lesotho who are designated and recognised as elections observers under this Act shall exercise their functions as elections observers without prejudice to their status and positions as diplomats.

CHAPTER 8 – ELECTORAL CODE OF CONDUCT

Electoral Code of Conduct

122. (1) There shall be an electoral code of conduct which shall be an integral part of this Act and is annexed hereto this Act as Schedule 2.

(2) A political party registered with the Commission shall sub-

scribe to the Code.

(3) A candidate nominated in terms of sections 40(6) and 49 (1) shall subscribe to the Code.

(4) The Code binds -

- (a) a political party registered with the Commission ;
- (b) an office- bearer, member and supporter of a political party registered with the Commission; and
- (c) a candidate and supporter of the candidate.

(5) If a political party registered with the Commission contravenes the Code, it is liable to one or more of the following sanctions, any of which may be suspended on specified conditions -

- (a) a formal warning;
- (b) a prescribed fine;
- (c) an order prohibiting the political party for a specified period, from utilising any media time made available by the Commission to the political party for electoral purposes;
- (d) an order prohibiting the political party for a specified period or limiting the right of the political party -
 - (i) to hold public meetings, demonstrations or marches;
 - (ii) to enter any specified electoral district or area for any specified electoral purpose; and
 - (iii) to erect placards or banners or to publish and distribute campaign literature or electoral advertising.

- (e) an order cancelling the registration of the political party with the Commission if the contravention involves violence, intimidation or gross or systematic violation of the rights of another political party, a candidate or an elector and consequently its right to participate in the elections;
- (f) an order rectifying any counting of votes if the political party, its candidates, members or supporters fraudulently obtained votes; or
- (g) an order excluding any political party, its candidates, members or supporters from any voting station or surrounding area if that party has prevented free and safe access to any other political party registered with the Commission and its candidates, members or supporters.

(6) If an office-bearer, candidate, member or supporter of a political party, or an independent candidate or the candidate's supporter, contravenes the Code, that person is liable to one or more of the following sanctions, any of which may be suspended on specified conditions -

- (a) one or more of the sanctions referred to in subsection (5)(a) to (d); or
- (b) an order disqualifying a political party if the contravention involves violence, intimidation or gross or systematic violation of the rights of another political party, a candidate or an elector and consequently its right to participate in the elections.

(7) If the registration of a political party is cancelled under this section, the political party may no longer participate in the elections and the candidate representing the political party and elected as a member of the National Assembly shall be disqualified.

Institution of proceedings

123. (1) A person may submit a written complaint concerning the con-

travention of the Code to the Director.

(2) On receiving the complaint, the Director shall refer the complaint for determination by the tribunal appointed in terms of section 135(1) (n).

(3) The tribunal adjudicating an alleged infringement of the Code may only impose a sanction referred to in section 122(4) (a) to (d) or (5) (a) or recommend to the Commission the imposition of any other sanction referred to in section 122.

(4) Upon the recommendation of the tribunal in accordance with subsection (3), the Commission may impose the recommended sanction or impose any other sanction referred to in section 122(4).

(5) In making its decision regarding an appropriate sanction, the tribunal or the Commission shall have regard to any other legal consequence that may result from civil or criminal proceedings instituted by reason of the same occurrence.

(6) There shall be no appeal from an order of the Commission.

CHAPTER 9 – ELECTIONS PETITIONS

Chief Justice to designate sufficient Judges to hear elections petitions

124. The Chief Justice shall designate sufficient Judges of the High Court to hear election petitions in order that the petitions are determined expeditiously and within the time periods set out in this Act.

Jurisdiction of the High Court

125. In accordance with section 69 of the Constitution, the High Court has exclusive jurisdiction to hear and determine any question whether -

- (a) any person has been validly elected as a member of the National Assembly; or
- (b) the seat of any member in the National Assembly has become vacant;

- (c) proportional representation seat has been properly allocated.

How and by whom an elections petition may be made

126. (1) The Commission may apply to the High Court to determine a question referred to in section 125.

(2) An elector, a political party which participated in the elections, a candidate or the Attorney General may apply to the High Court to determine a question referred to in section 125(a).

(3) An elector, a political party which participated in the election, a candidate or a member of the National Assembly or the Attorney General may apply to the High Court to determine a question referred to in section 125(b).

(4) An elector, a political party which participated in the elections, a candidate or a member of the National Assembly, the Commission or the Attorney General may apply to the High Court to determine a question referred to in section 125(c).

(5) ~~Application shall be made by way of a petition in accordance with section 69 of the Constitution, this Chapter and any rules prescribed in terms of section 133.~~

(6) Within 30 days of the contested result being announced in terms of sections 102 or 106(1) or declared under section 105, the petitioner shall -

- (a) lodge an elections petition with the High Court; and
- (b) serve it on -
 - (i) any political party and any of its candidates whose seat or membership of the National Assembly is being challenged; or
 - (ii) any independent candidate whose seat or membership is being challenged.

(7) The Attorney General may intervene in an elections petition and may then appear or be represented in the proceedings.

Procedure for an elections petition

127. (1) The High Court shall conduct the trial of an elections petition in open court.

(2) In determining an elections petition, the High Court shall be guided by the substantial merits of the case without regard to legal form or technicalities and shall not be bound by the rules of evidence.

(3) At the trial of an elections petition, the High Court has power to -

- (a) compel the attendance of witnesses and the production of documents;
- (b) examine witnesses on oath; and
- (c) punish a contempt of its authority by fine or imprisonment.

(4) The Court shall take all reasonable steps to ensure that -

- (a) elections petition proceedings begin within 14 days after the elections petition is lodged; and
- (b) the High Court's final order in relation to the elections petition are given within 30 days after the last day of the hearing.

(5) Despite subsection (4), the High Court shall give all parties to the elections petition at least seven days' notice before the trial of the election petition begins.

(6) At the trial of the petition, the High Court may order a scrutiny of the ballot papers used during the elections and may make such other ancillary orders for the determination of the petition as it considers appropriate.

High Court may order security for costs to be provided

128. (1) The High Court may order a petitioner to provide a specified amount, not exceeding M1, 000, as security for the costs of trying an election petition.

(2) Security ordered under subsection (1) is to be provided within the period specified in the order.

(3) If an order under subsection (1) is not complied with within the specified period, the election petition is deemed to be withdrawn.

Scrutiny of votes

129. (1) If the High Court orders a scrutiny of votes, all constituency ballot papers used at the elections are to be scrutinised.

(2) At the scrutiny, the High Court may inquire as to whether -

- (a) the names of persons who voted appeared on the electoral list for the constituency in respect of which they were entitled to vote or were registered for that constituency;
- (b) during the counting or recounting of ballot papers, any ballot papers were incorrectly allowed or rejected; and
- (c) any tendered ballot paper is a valid vote and should be added to the vote and counted.

(3) The Court may carry out the scrutiny of votes itself in the presence of the parties to the petition or may order -

- (a) the Registrar of the High Court or any other person, to carry out the scrutiny in the presence of those parties; and
- (b) that the results of that scrutiny be reported to the High Court.

Powers of the High Court

130. (1) The High Court may make any appropriate order including -
- (a) an order declaring the elections of a candidate to be valid;
 - (b) an order declaring the elections of a candidate to be invalid;
 - (c) an order declaring another candidate to be validly elected; or
 - (d) an order setting aside the elections and directing fresh elections to be held.
- (2) The High Court shall make an order under subsection (1)(b) if -
- (a) it finds that a candidate who was returned during the elections, or any other person, with the consent or connivance of that candidate, was guilty of an illegal practice during the elections period;
 - (b) it is satisfied that that candidate was not qualified to be, or is disqualified from being elected as a member of the National Assembly; or
 - (c) as a result of a scrutiny of the votes recorded during the elections, it is satisfied that that candidate was not properly returned.
- (3) The High Court shall make an order under subsection (1)(b) or (d) if -
- (a) the Court is satisfied that any illegal practice or misconduct committed during the elections period would or could have affected the results of the elections; and
 - (b) the person committing an illegal practice is a person

other than -

- (i) the candidate; or
- (ii) a person acting with the consent or connivance of the candidate.

(b) - (4) The High Court shall not make an order under subsection (1)

(a) unless the Court is satisfied that any failure to comply or irregularity in compliance with a procedure or requirement prescribed under this Act would or could have affected the results of the elections;

(b) on any of the following grounds -

- (i) a delay in the declaration of nomination of candidates;
- (ii) a delay in voting;
- (iii) a delay in announcing the results of the elections;
- (iv) the absence of an electoral officer that did not affect the results of the elections;
- (v) an omission or error of an electoral officer that did not affect the results of the elections;
- (vi) non-compliance or irregular compliance with a procedure or requirement prescribed by or under this Act or a misspelling on a ballot paper;
- (vii) the names of the candidates on a ballot paper were not set out in the order required under section 54;

- (viii) a person or place was incorrectly named or described in a document prepared or issued in terms of this Act, unless the incorrect name or description prevented the person or place from being identified; or
- (c) if an act or a thing required or authorised under this Act to be done by or in the presence of a candidate or agent, that candidate or agent failed -
 - (i) to do the act or thing required or authorised; or
 - (ii) to attend at the appointed time or place.

(5) The High Court shall not, if it finds that an elector was prevented from voting during elections by mistake or a contravention of a provision of Chapter 6, take into account evidence of the way in which the elector had intended to vote.

(6) The High Court may make an order for the payment of costs.

Notification and publication of determinations and orders of the High Court

131. (1) The Registrar of the High Court shall cause a copy of any High Court determination and orders made under this Chapter to be delivered to the Commission and the Speaker.

(2) The Commission shall, on receipt of the copy of the determination and orders referred to in subsection (1) publish the contents of such determination and order in the Gazette.

Registrar of the High Court to report offences found to have been committed during elections

132. (1) If during the trial of an election petition, the High Court finds that a person has committed an illegal practice, the Registrar of the Court shall, as soon as practicable after the trial is over, report the following to the Director of Public Prosecutions, the Director and, if there is a National Assembly, the Speaker -

- (a) the Court's finding; and
- (b) if known, the names and addresses of the persons who were proved at the trial to have committed, or to have consented to, or connived at, the commission of the illegal practice or contravention.

(2) The High Court shall not make a finding to the effect that a person has committed, or consented to or connived at the commission of an illegal practice unless it has given the person an opportunity to be heard, to give and to call evidence on the matter.

Practice and procedure of the High Court

133. The Chief Justice may make rules of court providing for the practice and procedure of the High Court under this Chapter.

CHAPTER 10 – ADMINISTRATION

Part 1 – Independent Electoral Commission

Oath of office of members of the Commission

134. A member of the Commission shall, before assuming the duties of office take and subscribe to the oath specified in Schedule 4 to this Act.

Powers, duties and functions of the Commission

135. For the purpose of carrying out its functions under the Constitution and this Act, the Commission shall have the following powers -

- (a) to establish and maintain liaison and co-operation with political parties registered with the Commission and other interested civic groups and after consultation with those parties and groups, to establish and enforce the Code to be subscribed to by those groups participating in elections under this Act;
- (b) to undertake and promote research into electoral matters;

- (c) to continuously review legislation and other matters relating to elections and referenda and to make appropriate recommendations;
- (d) to promote knowledge of sound electoral practices and processes through the media and other appropriate and effective means;
- (e) to develop and promote the development of electoral expertise and technology in all spheres of government;
- (f) to divide Lesotho into electoral areas and to publish the areas, by notice, in the Gazette;
- (g) to register electors under Chapter 2;
- (h) to prepare and maintain a Register;
- (i) to prepare and maintain an electors' register for each constituency;
- (j) to appoint electoral officers, consultants and other persons and to specify their functions;
- (k) to establish committees to assist or advise it in the performance of its functions;
- (l) to make regulations in terms of section 195;
- (m) to appoint persons to conciliate a complaint -
 - (i) concerning a contravention of the Code in terms of section 122(4); or
 - (ii) submitted in terms of section 123;
- (n) to appoint a tribunal to hear and determine complaints concerning the contravention of the Code in terms of section 122; and

- (o) to discharge such other functions as are conferred upon the Commission under this Act or any other law.

Particular means of safeguarding the independence of the Commission

136. For the purpose of safeguarding the independence of the Commission and its members -

- (a) a member and an officer of the Commission shall perform their functions impartially and independently, in good faith and without fear, favour or prejudice;
- (b) a member of the Commission -
 - (i) shall not, during the of office, be eligible for nomination or appointment to any other public office;
 - (ii) may not, whether directly or indirectly in any manner, give support to, or oppose any political party or candidate participating in the elections or any of the issues in contention between political parties or candidates; or
 - (iii) may not, by membership, association, statement, conduct or in any other manner place in jeopardy that member's perceived independence or prejudice the credibility, impartiality or integrity of the Commission.

Party delegates

137. (1) A political party registered with the Commission shall be entitled to appoint 2 electors as party delegates to represent it before the Commission and a party that appoints a party delegate may remove the delegate at any time.

(2) The Commission shall inform party delegates of all sittings of the Commission and any decisions made by it.

(3) A party delegate shall be entitled to have access to the offices of the Commission, to its records, and to check, verify and obtain any information regarding the work of the Commission:

Provided that -

- (a) the Commission may appoint an employee to accompany a delegate when exercising a right under this sub section; and
- (b) the party delegate does not hinder the Commission in the performance of its functions in terms of this Act.

(4) A party delegate shall be entitled to information concerning the adequacy of measures taken to comply with this Act in any elections from any member of the Commission or any of its employees connected with the management or security of the elections and any person requested to provide such information shall furnish the information as soon as is practicable.

(5) Nothing in this section granting a party delegate the right to seek and obtain information, entitles the delegate to information concerning the security features relating to ballot papers, voting documents and the official mark.

(6) The information referred to in this section may be given orally or in writing and, if the information is of a confidential nature, a party delegate to whom it is given shall have the same obligation as to its confidentiality as the person from whom the information is obtained.

Representatives of political parties

138. (1) A political party registered with the Commission -

- (a) may appoint 2 electors as representative to represent it in an electoral area;
- (b) may remove a representative at any time; and
- (c) shall advise the area electoral officer in writing of any appointment or removal of a representative.

(2) Subject to subsection (3), a representative appointed under subsection (1) shall have the following rights in the electoral area in which the representative is appointed -

- (a) access at all reasonable times to the offices of the Commission in the electoral area and to the records kept at those offices;
- (b) the right to obtain, check and verify any information regarding the work of the Commission; and
- (c) the right to information concerning the adequacy of measures taken by the Commission to comply with this Act during the elections and the area electoral officer shall furnish that information as soon as is practicable.

(3) The rights referred to in subsection (2) are subject to the following limitations:

- (a) the area electoral officer may appoint an officer to accompany the representative when exercising the right of access;
- (b) a representative may not hinder the Commission in the performance of its functions in terms of this Act; and
- (c) a representative is not entitled to information concerning the security features relating to ballot papers, voting documents and the official mark.

Power of the Commission to resolve complaints

139. (1) This section does not apply to complaints concerning -

- (a) a contravention of the Code;
- (b) a question referred to in section 123; or
- (c) any matter in respect of which this Act specifically provides an appeal procedure.

(2) An elector or a political party registered with the Commission may submit a complaint to the Director in the prescribed form concerning any irregularity arising from the interpretation or application of this Act.

(3) The Director shall attempt to resolve the complaint within the prescribed period.

(4) If the complaint remains unresolved, the Director shall refer it to a conciliator appointed in terms of section 135(1)(m) who shall investigate the complaint and attempt to resolve it.

(5) If the conciliator is not able to resolve the complaint within the prescribed period, the conciliator shall complete a report in the prescribed form and submit it to the Commission with recommendations.

(6) The Commission shall consider the report and make a decision within the prescribed period.

(7) Subject to subsection (9), a complainant may appeal to the High Court against the Commission's decision or lack of decision within 30 days of -

(a) the decision; or

(b) the expiry of the prescribed period referred to in subsection (6) if the Commission fails to make a decision within that period.

(8) Subject to subsection (9), a complainant may seek urgent relief pending the processing of a complaint under this section.

(9) If a complaint arises within the elections period, an appeal under subsection (7) against the Commission's decision may only be heard and determined after the expiry of the elections period.

Right of the Commission to institute actions

140. For the purpose of performing its functions, the Commission may institute any proceedings before any civil court and may seek from the court any remedy which may be available to it under the law.

Exemption from liability

141. A member of the Commission, an officer or employee of the Commission or any other person performing any function of the Commission under its direction, shall not be personally liable in any civil proceedings for any act done in good faith in the performance of those functions.

Special powers of the Commission

142. (1) If it appears to the Commission that, by reason of any mistake or emergency, the provision of this Act cannot be applied, the Commission may, by particular or general instructions -

- (a) extend the time for doing any act;
- (b) increase the number of electoral officers or voting stations; or
- (c) adapt any such provision in order to achieve the purposes of this Act to the extent necessary to meet the exigencies of the situation.

(2) The Commission may suspend registration during an emergency.

Duty to submit reports

143. 1) The Commission shall submit to Parliament through the Minister -

- (a) within 6 months after the end of each financial year, an annual report of its activities and an audited statement of its revenue and expenditure for that year; and
- (b) within 6 months after the declaration of the results of general elections or a referendum, a report on the elections or referendum.

(2) The Minister shall lay the report and statement referred to in subsection (1) before the National Assembly and the Senate as soon as practi-

cable but not exceeding the 6 months referred to in subsection (1).

Director and other staff of the Commission

144. (1) The Commission shall appoint a suitably qualified and experienced person as a Director upon terms and conditions determined by the Commission in consultation with the Public Service Commission and specified in the instrument of appointment.

(2) The Director shall be appointed from amongst persons of proven integrity having proven ability in the conduct of public affairs.

(3) The Director shall be the chief executive of the Commission and shall perform the functions conferred on him or her under this Act and such other functions as may be assigned by the Commission.

(4) The Director shall be the head of the administration of the Commission.

(5) The Director shall be the Chief Accounting Officer of the Commission in accordance with the laws governing the finances of the Commission.

(6) The Director shall cause the necessary accounting and other related records to be kept and shall ensure that such accounts are periodically audited.

(7) The Director may be removed by the Commission only for -

- (a) inability to exercise the functions of office whether arising from infirmity of body or mind or any other cause;
- (b) poor performance based on a systematic appraisal system approved by the Commission; or
- (c) serious misconduct or any other justifiable reason or cause.

(8) The Commission may appoint senior staff on performance con-

tract necessary for the discharge of its functions on terms and conditions as may be determined by the Commission in consultation with the Public Service Commission and specified in the instrument of appointment and the Commission's staff may not take any instructions whatsoever from individuals or bodies outside the Commission.

(9) The Director may delegate any of the functions conferred under subsection (3) to a member of staff unless the Act or the Commission prevents the Director from delegating the function.

Disciplinary powers of the Commission

145. The Commission shall have the power to -

- (a) discipline any member of staff of the Commission in line with disciplinary code and procedures of the Commission's human resource policy and procedures; or
- (b) dismiss and terminate the appointment of any member of staff of the Commission appointed under this Act in line with the section of the human resource policy and procedures.

Regulations governing conditions of service of staff

146. The Commission shall have power to make regulations governing conditions of service and discipline of election staff, as appear in the human resource policy and procedure.

Finances and assets of the Commission

147. (1) The expenditure in connection with the exercise of the Commission's powers and the performance of its duties and functions shall be defrayed out of monies appropriated by parliament for that purpose or received by the Commission from any other sources.

(2) On the commencement of this Act, all property, assets, rights, liabilities, obligations and contracts validly entered into by the Commission shall continue to be vested in the Commission.

(3) The Commission shall prepare a budget for the necessary resources or additional resources to enable it to exercise its powers and perform its duties and functions effectively.

(4) There shall be paid from the funds of the Commission -

- (a) the salaries, allowances and loans to the staff of the Commission;
- (b) such reasonable travelling, transport and subsistence allowances for the members of the Commission and members of any committee of the Commission when engaged in the business of the Commission, and at such rates as the Commission may determine; and
- (c) any other expenses incurred by the Commission in the performance of its functions.

(5) The Commission may invest in such manner as it thinks fit such funds as it does not immediately require for the performance of its functions.

Recurrent and Non-recurrent expenditure

148. Pursuant to section 66D of the Constitution and this Act, Parliament may approve all such requests as the Commission may require for the purpose of fulfilling its constitutional mandate.

Existing staff and transitional arrangement

149. (1) Subject to subsection (2), a person who, immediately before the coming into operation of this Act, was employed in the Public Service and serving under the Commission, shall be regarded as an employee of the Commission with all benefits already acquired or accumulated.

(2) A person who intends to remain with the Public Service shall notify the Commission within a period of 6 months of the coming into operation of this Act for redeployment into the Public Service, in consultation with the Ministry of Public Service.

- (3) Pension, gratuity and other benefits of -
 - (a) existing staff of the Commission shall continue to be governed by the Pensions Proclamation 1964 or the Public Officers Defined Contribution Pension Fund Act, 2008 whichever is applicable;
 - (b) members of staff of the Commission appointed after the coming into operation of this Act and who join the Commission 10 years or more prior to attaining the prescribed retirement age in the Public Service shall be governed by the Public Officers Defined Contribution Pension Fund Act, 2008.

Appointment of area electoral officers

150. (1) The Commission shall appoint a public officer to be an area electoral officer for each electoral area.

- (2) The functions of an area electoral officer are -
 - (a) to perform the functions of the Director in relation to the electoral area concerned as the Director may specify; and
 - (b) to perform such other functions as are imposed or conferred on an area electoral officers under this Act.

Appointment of other electoral staff

151. (1) The Commission shall provide for equal opportunity between women and men and shall appoint and employ as many electoral officers as are, in its opinion, required for the purpose of administering elections.

(2) Whenever elections are to be held for a constituency, the Commission -

- (a) shall appoint and employ a returning officer;

- (b) may appoint and employ a deputy returning officer for the constituency;
 - (c) shall appoint and employ a voting station manager for each voting station to be established within the constituency; and
 - (d) may appoint and employ a deputy voting station manager for each such voting station and such official witnesses and voting station officers as may, in its opinion, be required to conduct voting and counting at the voting station.
- (3) A person may hold 2 or more offices under this section at the same time.
- (4) If for any reason officers appointed in respect of a voting station are unable to perform their functions at the voting station, any other person appointed in respect of the voting station may, and if directed to do so by the returning officer or voting station manager, shall perform those functions.

Functions of Heads of Lesotho diplomatic missions

152. (1) Subject to any general or special directions that may be given by the Commission, the head of a Lesotho diplomatic mission in another country -

- (a) shall perform the functions of the Director for the purposes of registering as electors -
 - (i) public officers employed in the service of the Government in that country; and
 - (ii) the dependants or employees of those public officers.
- (b) shall perform the functions of a voting station manager for the purpose of enabling electors who are the officers, dependents or employees referred to in paragraph (a) to vote during elections as advance electors.

(2) The deputy of the head of a Lesotho diplomatic mission has the functions referred to in subsection (1)(a) and (b) for the purpose of enabling the head of that mission to be registered as an elector and to vote during elections as an advance elector.

Part 2 – Constituency, Voting District and Voting Station

Procedures for changes to constituency boundaries

153. (1) Before an order to change a boundary of a constituency is made under section 67 of the Constitution, the Commission shall -

- (a) invite representations from any elector or a political party registered with the commission by notice in the Gazette in respect of any review of the boundaries of the constituencies conducted in terms of the Constitution;
- (b) take the representations referred to under paragraph (a) into account in proposing any change to a boundary;
- (c) publish any proposed change to a boundary in the Gazette and by notice prescribe the date within which an elector or a political party registered with the Commission may object to the proposed change;
- (d) determine any objection; and
- (e) await the final determination of any review brought in terms of subsection (4).

(2) An objection shall be made in the prescribed form setting out the grounds of the objection and lodged with the Director within the period prescribed in the notice.

(3) On receipt of an objection, the Commission -

- (a) shall consider the objection;
- (b) may uphold the objection and amend its proposed

changes accordingly without republishing the new proposed changes in the Gazette;

- (c) may reject the objection; and
- (d) shall notify the objector of its decision and, if a refusal, the reasons for that refusal.

(4) An elector or a political party registered with the Commission who is dissatisfied with the Commission's decision under subsection (3) may, within a period of 7 days of the receipt of the notification, submit that decision to the High Court for review.

(5) As soon as practicable after an order to change a boundary of a constituency is made under section 67 of the Constitution, the Director shall -

- (a) make available for public inspection, without charge, at the Director's office a single map or a series of maps that show the names and boundaries of all the constituencies;
- (b) make available, without charge, at that office and such other places in Lesotho as the Director considers appropriate, a description of the boundaries of those constituencies and the reasons for delimiting those boundaries in that manner;
- (c) display in each constituency, in a conspicuous place to which members of the public have access, a map showing the boundaries of the constituency; and
- (d) publish a notice in one or more newspapers circulating generally in Lesotho or in such other manner as the Director may deem fit informing members of the public of the availability for inspection and the display of the matters mentioned in paragraphs (a), (b) and (c).

(6) When an order under section 67 of the Constitution is made, the Director shall amend the Register so that the register accords with any change in boundaries effected by the order.

Constituencies to be divided into voting districts

154. (1) The Director shall ensure that -
- (a) each constituency is divided into voting districts; and
 - (b) each voting district is assigned a distinguishing number.
- (2) When an order under section 67 of the Constitution is made, the Director shall adjust the voting districts forming part of each constituency affected by the change in boundaries.

Establishment of voting stations

155. (1) The Director shall ensure that at least one voting station is established in each voting district.
- (2) The Director shall determine the location of a voting station after consultation in the prescribed manner with political parties registered with the Commission and prospective candidates.
- (3) After consultation with the appropriate authorities, the Director may use any public building as a voting station without charge.
- (4) The Director may enter into a contract for the use of any other building as a voting station.
- (5) The Director shall, out of money provided by Parliament for the conduct of elections, pay compensation for -
- (a) any damage done to a building used as a voting station;
 - (b) the loss or damage to property in or connected with the building; and
 - (c) any expense properly incurred as a result of its use as a voting station.

CHAPTER 11 – ENFORCEMENT

Part 1 – Offences Relating to Registration

Failure to register as an elector

156. A person who fails to register as an elector as required under section 4 or fails to comply with section 8 (1) without reasonable excuse commits an offence and is liable on conviction to a fine of M250 or to imprisonment for a term of 3 months.

Inclusion of false names and particulars on the Register

157. A person who includes, or causes to be included, in the Register a name, address or any information that the person knows to be fictitious, false or misleading commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months or both.

Improperly procuring the registration or cancellation of registration of a person as an elector

158. (1) A person commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months or both, if that person procures the registration of any person knowing that the person -

- (a) is fictitious or dead;
- (b) is already registered as an elector; or
- (c) is not otherwise entitled to be registered as an elector.

(2) A person commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months, or both, if the person, without lawful excuse, procures -

- (a) the cancellation of the registration as an elector of a person who is entitled to be registered as an elector; or
- (b) the removal from the Register of the name of a person who is entitled to be included in the register.

Obstruction of electoral officers and other staff of the Commission

159. A person who obstructs or intentionally or recklessly misleads the Director, an area electoral officer, an electoral officer and other staff of the Commission while performing their functions in the registration of electors commits an offence and is liable on conviction to a fine of M1,000 or to imprisonment for a term of 12 months or both.

Failure to report death of electors to Director

160. A person who, without reasonable excuse, fails to comply with an obligation under section 19 to report the death of a person to the Director commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months or both.

Failure to notify Director of conviction or declaration

161. A person who, without reasonable excuse, fails to comply with an obligation under section 20 to notify the Director of a sentence, conviction or declaration commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months or both.

Part 2 – Corrupt Practices Concerning Elections**Undue influence**

162. (1) A person commits an offence of undue influence if that person, by the use of violence, intimidation or fraud -

- (a) influences the vote of an elector during the elections;
- (b) obstructs or prevents an elector from voting during the elections; or
- (c) induces an elector to vote during the elections against the elector's will.

(2) A person commits an offence of undue influence if the person injures or threatens an elector with violence or harm on account of the elector -

- (a) having voted or not voted during elections; or
- (b) having voted or not voted in a particular way.

(3) A person who improperly influences an electoral officer in the performance of the electoral officer's duties under this Act commits an offence.

(4) A person who is convicted of an offence contemplated by this section is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months, or both.

Bribery

163. (1) In this section, "elections conduct" means -

- (a) the decision of the person to vote or not to vote during elections;
- (b) the way in which the person votes or does not vote during elections;
- (c) the person nominating or not nominating a candidate for elections or withdrawing such a nomination; or
- (d) the person's support of, or opposition to, a candidate or a political party during elections.

(2) A person commits an offence of bribery if -

- (a) a person seeks or receives a benefit, personally or for another person, in order to influence the person's elections conduct;
- (b) a person offers, promises or gives any benefit to any person in order to influence the person's elections conduct; or
- (c) a person provides or lends any property knowing that the property is to be used in the commission of an offence referred to in paragraphs (a) and (b) or replaces any property that has been used for that purpose.

(3) A person who is convicted of an offence contemplated in this section is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months, or both.

Impersonation

164. A person commits an offence of impersonation and is liable on conviction to a fine M2,000 or to imprisonment for a term of 2 years, or both, if the person, during elections -

- (a) votes in the name of another person, including a dead or fictitious person;
- (b) votes more than once;
- (c) casts a vote that the person knows may not be cast; or
- (d) if the person knows that another person is not entitled to vote, engages in conduct that induces that person to vote.

Fraudulent acts in connection with the elections

165. (1) In this section, "electoral paper" means a ballot paper, a ballot paper envelope, a nomination paper, the electors' register or any form or other official document used in connection with the elections.

(2) A person commits an offence if the person, at or in connection with the elections -

- (a) forges or fraudulently defaces, alters or destroys any electoral paper;
- (b) uses an electoral paper knowing it to be forged;
- (c) counterfeits an official mark; or
- (d) makes the signature of any other person on an electoral paper.

(3) A person who, while the counting of votes is in progress during elections, fraudulently adds, removes, alters or destroys any ballot paper or ballot paper envelope used in connection with the elections commits an offence.

(4) A person convicted of an offence under this section -

- (a) in the case of an electoral officer, police officer, candidate or agent, is liable to a fine of M2,000 or to imprisonment for a term of 2 years or both; or
- (b) in the case of any other person, is liable to a fine of M1,000 or to imprisonment for a term of 12 months or both.

Part 3 – Illegal Practices Concerning Elections

Interpretation in this Part

166. For the purposes of this Part, "offensive weapon" means anything which, when used, is capable of inflicting injury or causing death.

Disorderly conduct during the elections

167. A person commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months, or both, if the person, in connection with the conduct of the elections -

- (a) enters or remains in a voting centre except as authorised under this Act;
- (b) behaves in a disorderly manner, or causes a riot or violence at a voting station or place where votes are being counted;
- (c) without a reasonable excuse, interrupts, obstructs or disturbs the proceedings at a voting station or place where votes are being counted;

- (d) without lawful authority, has possession of an offensive weapon at a voting station or place where votes are being counted;
- (e) except as authorised under this Act, enters a voting compartment or a place set aside for advance electors to record their votes;
- (f) except as authorised under this Act, prevents a candidate, agent or other authorised person from entering or leaving a voting station while voting is in progress or a place where votes are being counted;
- (g) obstructs, or intentionally or recklessly misleads an electoral officer in the performance of the officer's functions in connection with the conduct of the elections; or
- (h) hinders or interferes with the free exercise or performance by any other person of any right or duty conferred or imposed on that other person under this Act in relation to the elections.

Disorderly conduct at political meetings

168. A person commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months or both, if the person, at a political meeting held in a constituency during the elections period -

- (a) behaves in a disorderly manner, or causes a riot or violence, with the intention of preventing or disrupting the transaction of the business of the meeting; or
- (b) without lawful authority, has possession of an offensive weapon at the meeting.

Statements likely to mislead electors

169. A person commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months, or both, if the person -

- (a) during the elections period, publishes any information that is intended or likely to mislead an elector in relation to the manner of voting during the elections;
- (b) during the elections period, publishes a statement to the effect that a candidate has withdrawn from the elections -
 - (i) knowing the statement to be false; or
 - (ii) being recklessly indifferent as to the truth of the statement.
- (c) before or during the elections, publishes a statement relating to the personal character or conduct of a candidate intended to affect the election of the candidate -
 - (i) knowing the statement to be false; or
 - (ii) being recklessly indifferent as to the truth of the statement.

Failure to comply with requirements of electoral officers

170. A person who, without reasonable excuse, fails to comply with a lawful order of an electoral officer relating to the conduct of the elections commits an offence and is liable on conviction to a fine of M250 or to imprisonment for a term of 3 months.

Offences relating to ballot papers and ballot envelopes

171. (1) A person commits an offence if the person -
- (a) being an elector contravenes sections 76 and 85;
 - (b) contravenes section 86;
 - (c) except as required or authorised under this Act, takes a ballot paper or ballot paper envelope out of a voting station or a place where votes are being counted;

- (d) places in a ballot box or ballot paper envelope a ballot paper that has not been issued and completed in accordance with this Act;
 - (e) places in a ballot box any paper other than a ballot paper or ballot paper envelope issued and completed in accordance with this Act;
 - (f) removes a ballot paper from a ballot box or ballot paper envelope except as required or authorised under this Act; or
 - (g) destroys, removes or otherwise interferes with a ballot box or ballot paper envelope, or any form or other document, used in connection with the elections, except as required or authorised under this Act.
- (2) A person convicted of an offence in terms of this section is -
- (a) in the case of an electoral officer, police officer, candidate or agent, liable to a fine of M2, 000 or to imprisonment for a term of 2 years or both; or
 - (b) in the case of any other person, liable to a fine of M1, 000 or to imprisonment for a term of 12 months or both.

Infringing the secrecy of voting

172. (1) A person shall not -
- (a) unless ordered by a court of competent jurisdiction or authorised under this Act to do so, knowingly and intentionally unfold a ballot paper that has been marked and folded by an elector or otherwise ascertain or assist in ascertaining how an elector has voted during elections;
 - (b) if the person is performing or has performed functions in connection with the elections, discloses information

as to how an elector has voted during the elections;

- (c) unless authorised under this Act, assist or communicate with an elector who is about to vote during the elections;
- (d) induce an elector to display a ballot paper after the elector has voted so as to disclose how the elector has or has not voted; and
- (e) unless authorised under this Act, place on a ballot paper or ballot paper envelope any mark which would enable an elector who uses the ballot paper or ballot paper envelope to be identified.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months or both.

Prohibited activities during voting

173. (1) When voting is in progress during the elections, a person shall not, within the immediate vicinity of a voting centre -

- (a) canvass for votes;
- (b) induce an elector not to vote in a particular manner or not to vote during the elections;
- (c) loiter or obstruct the free passage of electors who wish to vote during the elections;
- (d) wear or display any flag, emblem, symbol or badge of a political party; or
- (e) use any instrument designed for making, amplifying or reproducing sound.

(2) Subsections (1) (d) and (e) do not apply to any place within the vicinity of a voting centre that is not a public place.

(3) A person shall not, on the elections day or 24 hours before the elections day convene, hold or attend a public meeting within the constituency within which the elections are held or are to be held.

(4) Notwithstanding any other law, a person that provides a public passenger transport service shall ensure that the service operates on the elections day in accordance with the approved timetable and on the approved route.

(5) Notwithstanding any other law, a person shall not induce a person referred to in subsection (4) to fail to comply with that subsection.

(6) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months or both.

Misuse of a Royal name

174. (1) For the purposes of this section, the "prohibited words" include -

(a) the words "Royal", "King" and "Queen"; and

(b) any other words or statement that suggest that the political party registered with the Commission or candidate concerned enjoys the patronage of the King or any other member of the Royal Family.

(2) A political party registered with Commission shall not include in its name any prohibited words.

(3) A political party shall ensure that no public speech purporting to be given, and no slogan or document purporting to be published, on behalf of the party or of any party candidate includes any statement that suggests that the political party or candidate enjoys the patronage of the King or any other member of the Royal Family.

(4) A candidate, agent or political party registered with the Commission shall not -

- (a) campaign during the elections under a name which consists of or includes any prohibited words; or
- (b) include in a public speech given for the purposes of elections, or in any slogan or document for publication for those purposes, any prohibited words.

(5) If a political party registered with the Commission contravenes subsection (2), (3) or (4), an official of the political party commits an offence unless the official proves that -

- (a) the contravention occurred without the official's knowledge; or
- (b) if the official did know, the official took all practicable steps to prevent the contravention.

(6) A candidate or agent who contravenes subsection (4) commits an offence.

(7) A person convicted of an offence under this section is liable to a fine of M500 or to imprisonment for a term of 6 months or both.

Person not to consent to nomination as a candidate in more than one constituency

175. A person who consents to being nominated for more than one constituency in the same elections is disqualified from being elected and commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months, or both.

Author of electoral matter to be named

176. (1) In this section, "electoral matter" includes -

- (a) any matter which on the face of it is intended or likely to affect the results of the elections; and
- (b) any report of a speech of a candidate if the report is to be paid for or any reward or compensation is to be pro-

vided.

(2) A person commits an offence if the person, during the elections period prints, publishes or distributes or causes, permits or authorises another person to print, publish or distribute an advertisement, announcement, handbill, pamphlet or notice containing electoral matter that does not comply with subsection (3).

(3) At the beginning or end of an advertisement, announcement, handbill, pamphlet or notice referred to in subsection (2), the following shall be stated -

- (a) in every case, the name and the residential or business address of the person who authorised the advertisement, announcement, handbill, pamphlet or notice; and
- (b) in the case of an advertisement, announcement or notice that is printed otherwise than in a newspaper, journal or other periodical publication, the name and business address of the printer.

(4) A proprietor of a publication commits an offence if -

- (a) an article or a paragraph, containing electoral matter printed in a newspaper, journal, or other periodical publication; and
- (b) either -
 - (i) the insertion of the article or paragraph is or is to be paid for; or
 - (ii) any reward or compensation, promise of any reward or compensation, is or is to be made for the insertion of the article or paragraph.

the proprietor does not ensure that the word "advertisement" is printed as a headline to the article or paragraph in letters not smaller than 10 point.

(5) A person convicted of an offence under this section is liable to

a fine of M500 or to imprisonment for a term of 6 months or both.

Entitlement of employees to leave their workplace to vote

177. (1) An employer of a person required to register as an elector under section 4 shall allow that person a reasonable period of leave of absence to enable the person to register.

(2) An employer of an elector shall allow the elector a reasonable period of leave of absence to enable the elector to vote during the elections.

(3) An employer contemplated in subsections (1) and (2) shall not make any deduction from the remuneration of the employee, or otherwise penalise the employee, for any absence allowed in terms of those subsections.

(4) An employer commits an offence and is liable on conviction to a fine of M1, 000 or to imprisonment for a term of 12 months, or both, if the employer -

(a) contravenes subsections (1) to (3);

(b) restrains an employee who is an elector from voting during the elections by intimidation.

Part 5 – Other Offenses

Offences by electoral officers

178. (1) An electoral officer commits an offence and is liable on conviction to a fine of M500 or to imprisonment for a term of 6 months or both, if the electoral officer -

(a) refuses to perform a function that the electoral officer is required to perform under this Act; or

(b) performs the functions in a reckless or grossly negligent manner.

(2) A person referred to in section 53(2) commits an offence if that person performs any function in respect of the elections without having signed

the prescribed declaration of secrecy referred to in that section and is liable on conviction to a fine of M250 or to imprisonment for a term of 3 months or both.

False or misleading statements in electoral documents

179. (1) A person commits an offence and is liable on conviction to a fine of M1,000 or imprisonment for a term of 12 months or both, if the person makes a statement the person knows to be false or misleading in a material respect in any of the following documents or circumstances -

- (a) in any application, notice, declaration or other document required or permitted under this Act; or
- (b) in answer to any question put to the person under this Act.

(2) For the purpose of subsection (1), a person who signs a statement is taken to have made the statement.

Liquor premises to be closed on the elections day

180. (1) Subject to subsection (2), a person shall not, on the elections day -

- (a) sell or authorise the sale of intoxicating liquor on the elections day; or
- (b) open any premises for the sale of intoxicating liquor on the elections day in a constituency in which the elections are being held or at any place outside the constituency that is within 4 kilometres of any voting station within the constituency.

(2) Subsection (1) has effect irrespective of any law relating to the sale or supply of liquor except that it does not prevent the sale of intoxicating liquor to -

- (a) a person who has slept or intends to sleep the night on premises licensed under any law relating to the sale or supply of liquor;

- (b) a person taking a meal on those premises; or
- (c) a tourist.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine of M500 or imprisonment for a term of 6 months or both.

Offence to destroy, mutilates, deface or remove notice or document without authority

181. A person who, without lawful authority, destroys, mutilates, defaces or removes a notice or document which is exhibited or made available for inspection under this Act commits an offence and is liable on conviction to a fine of M250 or to imprisonment for a term of 3 months or both.

Philanthropic work not to be undertaken during the elections period

182. (1) A political party or candidate shall not perform, or agree to undertake the performance of philanthropic work during the elections period.

(2) A philanthropic society or body shall not give, or agree to give, any of its funds to a political party or for any political purpose.

(3) If any such political party, society or body contravenes this section, each officer of the political party, society or body commits an offence, unless the officer proves that -

- (a) the contravention occurred without the officer's knowledge; or
- (b) if the officer did have that knowledge, the officer took all practicable steps to prevent the contravention.

(4) A person convicted of an offence under this section is liable to a fine of M250 or to imprisonment for a term of 3 months or both.

Part 6 – Supplementary Provisions relating to Enforcement and Legal Proceedings

Time limit for prosecuting an offence against this Act

183. (1) A prosecution against a person in respect of an offence contemplated in this Chapter shall be instituted before either of the following periods whichever expires later -

- (a) within 12 months after the offence is alleged to have been committed; or
- (b) within 6 of the High Court's determination in terms of section 131, if an elections petition has been lodged in terms of section 127.

(2) Despite subsection (1) (b), no prosecution may be instituted after two years from the date on which the offence is alleged to have been committed.

Removal of disqualification if the disqualification is as a result of perjury

184. (1) A person who becomes subject to a disqualification under this Act because of a conviction of an offence may apply to a court for an order that the disqualification be removed if -

- (a) a witness who gave evidence in the proceedings that led to the conviction has subsequently been convicted of perjury in respect of evidence given in those proceedings; and
- (b) the court is satisfied that the perjured evidence in fact led to the conviction.

(2) Such an order has effect according to its tenor.

Elector not to be asked or required to answer how the elector voted

185. In any legal proceedings brought under this Act, no person may ask an elector, and no elector, if asked, is required to answer, any question as to how

the elector voted during the elections.

Proof of elections

186. In any prosecution brought under this Act, the certificate of the Director that the elections specified in the certificate were held at the specified place and date is admissible in the proceedings as evidence that the elections were held at that place and date.

High Court may make orders directing compliance with this Act

187. (1) An application for an order directing compliance with this Act may be made to the High Court in accordance with this section if -

- (a) a person has engaged in, is engaging in or proposes to engage in conduct that is an offence against this Act; or
- (b) a person has failed to comply with a requirement imposed on the person by or in accordance with this Act.

(2) The application referred to in subsection (1) may be made if the conduct or failure relates to the elections -

- (a) by a candidate; or
- (b) in any other case, by the Director or the Attorney General.

(3) On hearing an application under this section, the High Court may -

- (a) in a case to which subsection (1)(a) applies, make an order directing the person concerned to cease or not to commit the offending conduct and, if appropriate, to do some specified act or thing; or
- (b) in a case to which subsection (1)(b) applies, make an order directing the person concerned to comply with the requirement.

- (4) An order under this section may be made -
- (a) if it appears that the person concerned intends to repeat or continue the conduct referred to in subsection (1)(a) or to fail to comply with a requirement referred to in subsection (1)(b); or
 - (b) if that person has previously engaged in the conduct or failed to comply with the requirement.

(5) The fact that an order is made or being sought against a person under this section does not prevent the person from being proceeded against for an offence against this Act in relation to conduct or a failure to comply with a requirement to which the order relates.

(6) The High Court may at any time revoke or vary, an order made under this section.

CHAPTER 12 – VACANCY IN MEMBERSHIP OF THE NATIONAL ASSEMBLY

Vacancy in membership of the National Assembly

188. (1) If a court convicts a member of the National Assembly of an offence or makes an order in respect of that member and the conviction or order has the effect of disqualifying the member, the registrar of the court shall immediately send to the Commission and to the Speaker -

- (a) a certified copy of the conviction or order; or
- (b) if the conviction or order is appealed against, a certified copy of any decision of the Court of Appeal confirming or reversing the conviction, decision or order.

(2) A member of the National Assembly elected to a constituency seat vacates the seat if the member resigns, dies or becomes disqualified from being a member under this Act.

(3) A member of the National Assembly allocated a seat by proportional representation, shall vacate that seat if the member resigns as a member,

resigns from the political party under which the member was elected, crosses the floor, dies or becomes disqualified for being a member under this Act.

(4) For the purpose of determining the date on which a member becomes disqualified for the purposes of this section, the date of disqualification is -

- (a) if the right to appeal against the conviction or order referred to in subsection (1) is not exercised, the date that the right to appeal expires;
- (b) if the right to appeal against the conviction or order is exercised but leave to appeal is refused, the date of that refusal; or
- (c) if the right to appeal against the conviction or order is exercised and leave to appeal is granted, the date that the appeal is finally determined.

(5) On becoming aware that a member's seat has become vacant the Commission shall publish in the Gazette a notice specifying -

- (a) that a vacancy in respect of a constituency seat has occurred in the National Assembly;
- (b) the name of the constituency in which the vacancy has occurred; and
- (c) the cause of the vacancy.

Filling of vacancies in the National Assembly

189. (1) A vacancy in respect of a constituency seat shall be filled by holding by-elections promulgated under section 38.

(2) If a vacancy occurs in respect of a seat allocated to a party under proportional representation, the Speaker shall appoint the next person on the party list contemplated in section 51 in order of preference.

(3) If the next person on the list is not willing or able to be appoint-

ed to the seat, the Speaker shall appoint the next person on the list in order of preference.

(4) If there is no person willing or able to be appointed from the party list, the seat shall remain vacant until the next general elections.

How questions relating to membership of the National Assembly are to be dealt with

190. (1) Whenever a question arises as to whether the seat of a member of the National Assembly has become vacant, that question shall be determined by the High Court in accordance with section 125.

(2) On the hearing of an application under subsection (1), the court shall determine the question.

(3) The practice and procedure to be followed in relation to such an application shall be as prescribed under section 133.

(4) A member is not entitled to sit as a member of the National Assembly pending an appeal if -

(a) a court convicts the member of an offence or makes an order in respect of that member; and

(b) the conviction or order has the effect of disqualifying the member.

CHAPTER 13 – SUPPLEMENTARY

Service of notices and other documents

191. (1) Subject to this Act, any notice or other document required to be served on a person in terms of this Act may be served -

(a) by delivering it to the person personally;

(b) by leaving it at the person's -

(i) last known place of residence, employment or

business; or

- (ii) place of residence, business or employment stated in the Register as that person's place of residence, business or employment.
- (c) by sending it to any such place of residence, business or employment by registered post; or
- (d) if the person resides or retains a permanent home in a village, by delivering it to the Chief or Headman of the village.

(2) In proving the service of a notice or other document by post, it is sufficient to prove that a letter containing the notice document was properly addressed and posted by registered mail.

(3) Unless the contrary is proved, the service of a notice or other document by post is taken to have been effected when the letter containing the notice or document would have been delivered in the ordinary course of post by registered mail.

Postage not to be payable for official elections documents

192. (1) No postage is payable for sending by post any official document relating to the registration of electors or the conduct of the elections if there is printed or written on the document or, if the document is in an envelope, on the envelope the words "elections document", "elections matter" or "electoral matter".

(2) This section applies both to documents sent to and documents sent by electors and persons who are or may be eligible to be registered as electors.

Rubber stamps not to be used for signing documents under this Act

193. The purported signing of a document for the purposes this Act by applying to the document a rubber stamp containing a facsimile of a person's signature is of no effect.

Who may administer an oath

194. An electoral officer is competent to administer an oath for the purposes of this Act.

Regulations

195. (1) The Commission may, by notice published in the Gazette, make regulations in respect to any matter required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act including -

- (a) the manner in which the identity of a person who applies to be registered as an elector is to be proved in the registration of electors; and
- (b) to prescribe the manner in which complaints concerning irregularities in respect of the electoral process are to be processed.

(2) The Commission may, by notice published in the Gazette, amend any of the Schedules and prescribe the forms to be used for the purposes of this Act.

Compliance with forms

196. (1) Compliance with forms is not strict and the Commission may condone any failure to comply with a form provided that the requirements of the form are substantially complied with.

(2) If a form prescribed for the purposes of this Act requires the form to be completed in a specified manner or requires specified information to be included in, attached to or provided with the form, the form is not properly completed unless it -

- (a) it is completed in that manner; and
- (b) it includes or has attached to it or provided with it, that information.

Savings and transitional provisions

197. Anything done under the National Assembly Elections Act 1992, and continuing at the date of commencement of this Act, shall be deemed to have been done under this Act in so far as it is consistent with the provisions of this Act.

Repeal

198. The National Assembly Elections Act 1992 is repealed.

SCHEDULE 1 – FORMS**FORM 1****KINGDOM OF LESOTHO – NATIONAL ASSEMBLY ELECTORAL ACT,
2011**

[Section 6(1) (a)]

**APPLICATION FOR REGISTRATION AS AN ELECTOR TO VOTE FOR
MEMBERS OF THE NATIONAL ASSEMBLY****PART A – TO BE COMPLETED BY THE APPLICANT**

I apply to be registered as an elector of the Kingdom of Lesotho.

1. Surname is:
2. Other names are:
3. My postal address is:
4. My sex is: ☐ [male] ☐ [female] /Tick one box
5. I am a citizen of the Kingdom of Lesotho who has reached 18 years of age: Yes/no
6. I was born at: [here state your place of birth]

7. I was born on : D D M M Y Y Y Y

8. My father's name is (or, if deceased, was):

9. My mother's name is (or, if deceased, was):

10. * I permanently reside at:

OR

*I have permanent home at:

OR

*My place of business or employment is at:

I solemnly (*swear/*affirm) that the particulars given in this application are true and correct.

Date 20 Signature

(Applicant)

PART B – TO BE COMPLETED BY THE ELECTORAL OFFICER AND THE OFFICIAL WITNESS

[Note: This part does not have to be completed if other satisfactory evidence of identity (for example, a current Lesotho passport or certificate of identity certify by the headman) is produced to the electoral officer].

I solemnly [*swear/*affirm] that I know the applicant and that the particulars that the applicant has given are to the best of my knowledge, correct.

Date 20 Signature

(Electoral Officer)

Electoral area of

Signature

(Competent witness)

*draw a line through the words that do not apply.

FORM – 2

KINGDOM OF LESOTHO – NATIONAL ASSEMBLY ELECTORAL
ACT, 2011

(Section 37(2) (c) and 38(3))

PROCLAMATION FIXING THE DATE OF THE ELECTIONS TO ELECT
MEMBERS OR A MEMBER OF THE NATIONAL ASSEMBLY

I, [here insert the name and title of the appropriate Executive Authority], in accordance with the National Assembly Electoral Act, 2011, proclaim [here insert the date or dates on which the elections are to be held] as the voting *day/*days for the holding of the general elections to return members of the National Assembly for all constituencies of the Kingdom of Lesotho/ the holding of a[by-elections/fresh elections] to return a member of the National Assembly of the constituency of [here insert the name of the constituency concerned]

I direct the Director of Elections of Kingdom of Lesotho to cause the *general elections/by-elections/*fresh elections to be conducted in accordance with the National Assembly Electoral Act, 2011, as the voting*day/days mentioned above.

Signed at on20.....

*His Majesty the King.

*The words that do not apply should be omitted.

FORM 3

ELECTIONS TIMETABLE

[Section 38(5)]

In terms of section 39 of the National Assembly Electoral Act, 2011, the Commission hereby gives notice that it has determined the elections timetable

set out below to apply to the [Particulars of the relevant elections] that will be held on [day/month/year].

1. Cut off time for act to be performed

An act required in terms of this Act to be performed by not later than the date stated in this timetable shall be performed before 17h00 on that date unless a different time is stated in the Act or this timetable

2. Proclamations [s.37 (2) (b)]

[not later than 4 days after dissolution of Parliament]

3. Publication of elections notice [s.37 (3)]

[as soon as practicable after the proclamation]

4. Beginning of Election period [s. 37(3)]

[date of publication of the elections notice]

5. The prescribed period within which 17 years olds may register [s. 7]

[date from which 17 year olds may register to the date registration closes]

6. Date of suspension of registration of electors

[The registration of electors shall be suspended from [day/month/year] in terms of section 12].

7. Publication of the electors' register

The Director shall publish electors' register contemplated in section 39(1)(e)[day/month/year]

8. Cut off date for objections to the electors' register as in terms of section 14(3).

A person may object, in the prescribed manner, to any refusal of an application to register or to the inclusion of any name on the electors' register. [day/month/year]

9. Date on which nomination applications of candidates in constituency elections is to be submitted in terms of section 41.

Submission of nomination applications of candidates in constituency elections closes on[day/month/year]

10. Date for the announcement of the nomination for candidates in constituency elections as in section 41.

Announcement of nominated candidates is
.....[day/month/year]

11. Cut off date for objections to nomination of candidates in constituency elections

Objections in terms of section 42 shall be submitted to the Commission for the constituency by[day/month/year]

12. Date of submission of party lists of candidates for proportional representation elections

Submission of party lists in terms of section 47 on
.....[day/month/ year]

13. Cut off date for submission of party lists of candidates for proportional representation elections

List of candidates for proportional representation elections contemplated in section 47 shall be submitted to the Director not later than
..... day/month/year]

14. Cut of date for complying with non-compliance notice in respect of party lists of candidate

A political party that has been given a non-compliance notice in terms of section 49 shall have until the[day/month/year]

to comply

15. Date by which Director of Elections shall give notice that the copies of party lists of candidates will be available for inspection as in terms of section 48.

The Director of Elections shall give notice by
[day/month/year] that copies of list of candidates
 will be available for inspection

16. Cut of date for objections to the nomination of candidates on the party lists

Objections in terms of section 49(1) shall be submitted to the Director of Elections by.....[day/month/year]

17. Publication of final party lists of candidates

The Director shall publish the final party lists of candidates in terms of section 50(1) by[day/month/year]

18. Date by which Director shall issue certificates to candidates on the final party lists of candidates in terms of section 50(2)
 [date/month/year]

19. Applications to vote as an advance elector in terms of section 73 shall be made from[day/month/year]

20. Date of which candidates and agents inspect applications to vote as advance electors.....[date/ month/ year]

21. Date by which returning officers shall issue the certificate of the number of advanced electors approved for each constituency in terms of section 75[day/month/year]

22. Date by which the returning officer invites candidates and agents to satisfy themselves that the certificate is in order and to sign the certificate.....[date/month/ year]

23. Voting day for advance electors section 76

Voting day for advance electors shall be

.....[day/month/year]

24. Cut off date for applications to change voting stations in terms of section 83(2).

Applications to vote at a voting station other than the one where the elector is registered shall be made in the prescribed form by

.....[day/month/year]

25. Date for publication of final results of general elections section 106.

Form 4

KINGDOM OF LESOTHO – NATIONAL ASSEMBLY ELECTORAL ACT, 2011

(Section 41)

FORM FOR NOMINATING A CANDIDATE FOR ELECTIONS TO THE NATIONAL ASSEMBLY

To the returning officer for the constituency of [here insert the name of the constituency concerned]

PART A – PARTICULARS OF THE PERSON TO BE NOMINATED

1. Surname:
2. Other names:
3. Elector's registration number:
4. Residential address:
5. Contact or phone number:
6. Occupation:

7. If the person's candidature is sponsored by a political party:
- (a) the name of the party;
 - (b) the address of the party's office or principal office;
 - (c) a picture (in black and white) showing the party's registered official symbol.
8. If the person's candidature is not sponsored by a political party, a picture (in black and white) showing the person's registered official symbol.

PART B – TO BE COMPLETED BY THE PROPOSER

I, being an elector registered for the constituency, propose that the person named above be nominated as a candidate for the elections for the constituency to represent the electors of the constituency in the National Assembly.

Dated 20 at

Signature
(Proposer)

Proposer's name:

Proposer's registration number:

Proposer's residential address:

PART C – TO BE COMPLETED BY THE SECONDER

I, being an elector registered for the constituency, second the nomination of the person proposed as a candidate for elections to represent the electors of the constituency in the National Assembly.

Dated 20 at

Signature.....
(Seconders).

Seconders' name:

Seconders' registration number:

Seconders' residential address:

PART D – TO BE COMPLETED BY THE PERSON NOMINATED AS A CANDIDATE

I,the person nominated as a candidate, declare that:
(Please tick "yes" or "no")

I am a citizen of Lesotho Yes ☐ No ☐

I am at least 18 years of age Yes ☐ No ☐

* I am registered as an elector Yes ☐ No ☐

* I am not disqualified from being
elected as a member of the Yes ☐ No ☐
National Assembly

and I declare that:

• I am not, and do not intend to be, a candidate in any other elections to be held on the same day or days as elections to which this nomination relate; and

• I consent to act as a member of the National Assembly for the constituency if elected.

Dated20..... At

Signature
(Person nominated)

PART E – TO BE COMPLETED IF THE PERSON NOMINATED IS A CANDIDATE OF A POLITICAL PARTY

Icertify that the person nominated as a candidate for elections to represent the electors of the constituency endorsed by [here insert the name of the political party concerned]

Dated 20.....at

Signature
(Officer of the political party)

Full names of the officer:

Residential address of the officer:

Signatory's capacity within the political party:

Address of the office or

Principal office of the Political Party:

Ballot paper

FORM – 5

Ballot paper

Serial No.

Serial No.

000000

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**KINDOM OF LESOTHO – NATIONAL ASSEMBLY ELECTORAL ACT,
2011**

FORM OF BALLOT PAPER (VOTING AT VOTING STATION)

(Section 54)

(Front of the ballot paper)

CONSTITUENCY ELECTIONS

Counterfoil of the ballot paper for election of a member to a constituency

Elections for members of the National Assembly held for the constituency of
[name of constituency]

on

[insert date of elections]

Ballot paper serial number – [number]

Identifying number of the elector to whom the ballot paper is issued; [insert the number]

Perforation

Elections of a member of the National Assembly for the constituency of [name and constituency] held on [date]

Voting instructions (read carefully)

Vote for one candidate by placing a tick or cross in the blank square next to the name and symbol of the political party or independent candidate for which you wish to vote. Do not write on the ballot paper that will enable you to be identified.

Candidate's name	Political Party	Party Symbol or an independent
CHOBOKOANE, TEBOHO	RED PARTY	[Registered Official] Symbol of political party
KOBELI, LENANEO	BLUE PARTY	[Registered Official] Symbol of political party
NKHAHLE, JANE	PINK PARTY	[Registered Official] Symbol of political party
SEBOKO, PALESA	INDEPENDENT	[Registered Official] Symbol of candidate

(Perforation)

Counterfoil of the ballot paper for election of a member to a constituency

Elections for members of the National Assembly held for the constituency of [name of constituency]

On

[insert date of elections]

Ballot paper number – [number]

Identifying number of the elector to whom the ballot paper is issued; [insert the number]

[Back of the ballot paper]

[Place for the official mark]

Ballot paper
Serial No. 000000

FORM - 6

Ballot paper
Serial No. 000000

KINGDOM OF LESOTHO – NATIONAL ASSEMBLY ELECTORAL ACT,
2011

(Section 54 (4))

**FORM OF SPECIAL BALLOT PAPER (VOTING AT A VOTING
STATION)**

[Front of the ballot paper]

ELECTION OF MEMBERS BY PROPORTIONAL REPRESENTATION

[Counterfoil of the special ballot paper]

Elections for a member of the National Assembly by proportional representation held on [date]

Ballot paper serial number - [number]

Identifying number of the elector to whom the ballot paper is issued; [insert the number].....

Perforation

Elections for a member of the National Assembly by proportional representation held on [date]

Voting instructions (read carefully)

Vote for one political party by placing a tick or cross in the blank square next to the name and symbol of the political party for which you wish to vote. Do not write on the ballot paper that will enable you to be identified.

Political party

Political party symbol

RED PARTY

[Registered official symbol of political party]

BLUE PARTY

[Registered official symbol of political party]

PINK PARTY

[Registered official symbol of political party]

GREEN PARTY

[Registered official symbol of political party]

Perforation

[Counterfoil of the special ballot paper]

Elections for a member of the National Assembly by proportional representation held on [date]

Ballot paper number - [number]

Identifying number of the elector to whom the ballot paper is issued; [insert the number]

[Back of the special ballot paper]

[Place for the official mark]

SCHEDULE 2 – ELECTORAL CODE OF CONDUCT

(Section 122)

1. The objective of this Code shall be to promote conditions conducive to the conduct of free and fair elections and a climate of democratic tolerance, in which political parties activity may take place without fear or coercion, intimidation or reprisals.
2. All political parties and other persons bound by this Code shall endeavour to promote its object in order to enable free elections campaigning and open public debate to take place in all parts of Lesotho throughout the elections period.
3. Political parties and candidates further commit themselves -
 - (a) to give wide publicity of the Code;
 - (b) to promote electors education campaigns;
 - (c) to condemn violence and intimidation;
 - (d) to instruct their candidates, office-bearers, members and supporters accordingly; and
 - (e) generally, to affirm the rights of all participants in the elections -
 - (i) to express divergent political opinions;
 - (ii) to debate and contest the policies and programmes of other political parties;
 - (iii) to canvass freely for membership and support from electors;
 - (iv) to hold public meetings;
 - (v) to attend public meetings convened by others;

- (vi) to distribute electoral literature and campaigning materials;
- (vii) to publish and distribute notices and advertisements;
and
- (viii) to promote free electoral campaigns by all lawful means.

4. All those bound by this Code in terms of sections 122 shall, throughout the elections period, give effect to the following undertakings and stipulations -

- (a) to publicly and repeatedly condemn violence and intimidation and to avoid the use of language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of political advantage, or for any other reason;
- (b) to refrain from any action involving intimidation;
- (c) to ensure that no arms or weapons of any kind are carried or displayed at political parties meetings or in the course of any march, demonstration or other events of a political nature.
- (d) to refrain from publishing or repeating false, defamatory allegations concerning any person or political party in connection with elections;
- (e) to co-operate and liaise in good faith with other political parties to avoid, in so far as possible, arrangements involving public meetings, demonstrations, rallies or marches taking place at the same time and venue as similar political events organised by other political parties.
- (f) to do nothing to impede the democratic right of any political party, through its candidates, canvassers and representatives, to have reasonable access to electors for the purpose of conducting elector education, fund raisings, canvassing membership and soliciting support;

-
- (g) to avoid plagiarising the symbols, colours or acronyms of other political parties and to discourage and, if possible, prevent the removal, disfigurement or destruction of political campaign materials of other political parties;
 - (h) to refrain from offering any inducement or reward to any person consideration of such person either joining or not joining any political party, attending or not attending any political parties event; voting or not voting (either at all, or any particular manner); or accepting, refusing or withdrawing such person's nomination as a candidate in elections;
 - (i) to refrain from abusing a position of power, privilege or influence for political purposes, including -
 - (i) incumbent governmental power such as state facilities and transport; and
 - (ii) parental, patriarchal or traditional authority.
 - (j) to avoid any discrimination based on race, ethnicity, nationality, class, gender or religion, in connection with elections and political activities;
 - (k) in relation to the role of women -
 - (i) to facilitate full participation by women to all public political activities on the basis of equality;
 - (ii) to ensure free access by women to all public political party meetings, facilities and venues;
 - (iii) to respect the right of women to communicate freely with political parties; and
 - (iv) generally, to refrain from forcing women to adopt a particular political position or to engage in, or to refrain from engaging in, any political activity otherwise than in accordance with their free choice;

- (l) in relation to the Commission -
 - (i) to acknowledge its authority in the conduct of elections;
 - (ii) to ensure the attendance and participation of political party representatives at meetings organised by or on behalf of the Commission;
 - (iii) to implement its orders and directives;
 - (iv) to facilitate its right of access through its officers or other representatives to all public political party meetings or other electoral activities;
 - (v) to co-operate in the official investigation of issues and allegations arising during elections period; and
 - (vi) to take all reasonable steps to ensure the safety of its officers and other representatives of the Commission from exposure to insult, hazard or threat in the course of their official duties;
- (m) to reassure electors with regard to the impartiality of the Commission, the secrecy and integrity of the ballot and further more, that no one will know how any other person has voted;
- (n) to take reasonable steps to discipline and restrain their party office-bearers, employees, candidates, members and supporters from -
 - (i) infringing this Code;
 - (ii) committing any offence under this Act or any other law;
 - (iii) committing any prescribed electoral irregularity; and
 - (iv) contravening or failing to comply with any provision of this Act.

- (o) to refrain from -
 - (i) involving the Defence Force, Police Service, National Security Service and Correctional Service in their political activities;
 - (ii) exerting political influence on the Defence Force, Police Service, National Security Service and Correctional Service.
- (p) the Commission shall take responsibility to ensure that candidates and political party office bearers do not -
 - (i) abuse their positions for the purpose of their election campaigns;
 - (ii) use government vehicles during elections period except for Ministers and other officials entitled to the use of such government vehicles.

SCHEDULE 3 – ALLOCATION OF SEATS

[Section 104]

1. The Commission shall determine the total votes cast for -
 - (a) each political party which participated in the proportional representation elections according to section 105 and add together all the total party votes which shall be referred to in this Schedule as the “total votes”;
 - (b) each political party by adding the total votes from the constituencies which shall be referred to in this Schedule as the “total party votes”;

Example

Total party votes	Red Party	101 237
Total party votes	Blue Party	132 679

Total party votes	Pink Party	268 103
-------------------	------------	---------

TOTAL VOTES		502 019
--------------------	--	----------------

2. (1) The Commission shall then determine the number of votes required for the allocation of seats by -

- (a) dividing the total votes by 120 or any number of constituencies that successfully contested elections plus forty proportional representation seats; and
- (b) rounding off to the next number, any decimal fraction, including a whole number.

(2) The resulting figure shall be referred to in this Schedule as the "quota of votes".

Example:

502 019 divided by 120 = 4 183.49166666
= 4 184

3. (1) The Commission shall determine the provisional total number of seats in the National Assembly to which each political party is entitled on the basis of its share of the total vote and, this allocation shall be referred to in this Schedule as the "provisional allocation of the total number of seats" and, it shall do so in the following manner:

- (a) it shall divide the "total party votes" by the "quota of votes", the resulting number shall be referred to as the "party's quota of votes";

Example

Red Party	101 237	votes divided by 4 184 = 24.19622
Blue Party	132 679	votes divided by 4 184 = 31.71104
Pink Party	268 103	votes divided by 4 184 = 64.07815

- (b) it shall allocate seats to each political party, equal to the party's quota of votes without taking any decimal frac-

tion into account;

Example

Red Party = 24 seats
 Blue Party = 31 seats
 Pink Party = 64 seats

- (c) it shall then add all the seats allocated under paragraph (b) and deduct that total from 120 seats in the National Assembly or any number of constituencies that successfully contested elections plus forty proportional representation seats;

Example

$24 + 31 + 64 = 119$ seats
 $120 - 119 = 1$ seat still to be allocated.

- (d) if there are fewer seats provisionally allocated than the total number of seats in the National Assembly, the remaining seats shall be allocated in the following manner:
- (i) the first remaining seat shall be allocated to a political party with the highest decimal fraction arising from the calculation done in terms of paragraph(a);
 - (ii) the next remaining seat shall be allocated to the political party with the next highest decimal fraction; and
 - (iii) each further remaining seat shall be allocated to the political party with the next highest decimal fraction.

Example:

Red Party = 24.19622 = no additional seat = 24 seats

Blue Party = 31.71104 = 1 additional seat = 32 seats

Pink Party = 64.07815 = no additional seat = 64 seats

(2) The Commission shall then determine each party's provisional allocation of proportional representation seats and, shall do so by deducting the number of seats won by the party in the constituency elections from the total seats allocated in terms of section 3(1) (d) and, the resulting number of seats shall be referred to as "party's provisional allocation of compensatory seats" under this Schedule.

Example

Red Party = 24 provisional seats less 15 constituency seats
= 9 compensatory seats provisionally allocated;

Blue Party = 32 provisional seats less 20 constituency seats
= 12 compensatory seats provisionally allocated;

Pink Party = 64 provisional seats less 45 constituency seats
= 19 compensatory seats provisionally allocated;

- (a) The Commission shall then add the total number of compensatory seats provisionally allocated in terms of subsection (2) and if the resulting total is equal to the number of seats set aside for proportional representation, the provisional allocation shall be the final allocation.

Example

$9 + 12 + 19 = 40$ seats

- (b) If the total referred to in paragraph (a) add to more than the total number of seats set aside for proportional representation, the Commission shall determine the final allocation of seats in the following manner:

- (i) if a political party has won equal or more constituency seats than its provisional allocation, then the constituency seats shall be its final allocation;
- (ii) the Commission shall exclude the political party from further calculation of compensatory seats; and
- (iii) the Commission shall then allocate to the remaining political parties, number of seats which are available for allocation by following the same procedure contained in section 2 and 3(1).

Example

Step 1

Political parties	Provisional allocation	Constituency seats won	seats
Compensatory			
Red Party	24	25	0
Blue Party	32	19	13
Pink Party	64	36	28
Total	120	80	41(1Extra seat)

Step 2

Red Party is excluded from the calculations as explained in paragraph (i), as a result of the exclusion of Red party from the calculations the remaining seats to be allocated shall be 95.

Example:

Subtract 25 constituency seats (Red Party) from 120 or any number of constituencies that successfully contested elections plus forty proportional representation seats.

$$120 - 25 = 95$$

Step 3

400 782 (the votes casts for Blue Party and Pink Party)

Divided by 95 = 4 218.75789 4 219

Blue Party = 132 679 votes divided by 4 219 = 31.44793

Pink Party = 268 107 votes divided by 4 219 = 63.54658

Step 4

Blue Party = 31 seats

Pink party = 63 seats

Step 5

31 (Blue Party) + 63 (Pink Party) = 94 which means that one seat must be allocated on the basis of the highest decimal fraction.

Step 6

Blue Party = 31.44793 no additional seat = 31 seats

Pink Party = 63.54658 1 additional seat = 64 seats

Step 7

Blue Party = 31 provisional seats less 19 constituencies
= 12 compensatory seats provisionally allocated.

Pink Party = 64 provisional seats less 36 constituencies
= 28 compensatory seats provisionally allocated.

Political Parties	Provisional seats	Constituency seats won	Compensatory seats	Final alloca- tions of seats
Red Party	0	25	0	25
Blue Party	31	19	12	31
Pink Party	64	36	28	64

Total	95	80	40	120
-------	----	----	----	-----

- (c) If in any calculation two or more political parties receive the same quota of votes or the same decimal fraction as a result of division and there are not sufficient seats to be allocated to both or all of the political parties, the Commission shall allocate the seats as follows:
- (i) the political party with less constituency seats than the provisional allocation shall be given preference;
 - (ii) in all other cases by lot administered by the Commission in the presence of the political parties affected.

4. For the purpose of this Schedule all fractions shall be allocated to as many decimal places as may be necessary to distinguish between them, but to at least 5 decimal places.

SCHEDULE 4 – OATH OF OFFICE OF A MEMBER OF THE COMMISSION

(Section 136)

I.....having been appointed as Chairperson/Member of the Independent Electoral Commission, do swear (or affirm) that I will well and truly perform the functions of Chairperson /Member of the Independent Electoral Commission in accordance with the Constitution and the laws of the Kingdom of Lesotho without fear or favour, affection or ill-will.

So help me God [to be omitted in affirmation.]

.....

Signature (Chairperson /Member)

.....
Signature (Chief Justice)

NOTE

1. Order No. 10 of 1992

GOVERNMENT NOTICE NO. 85 OF 2011

**Statement of Objects and Reasons of the
National Assembly Electoral Act, 2011**

**(Circulated by the Authority of the Minister of Law and
Constitutional Affairs)**

1. The Purpose of the Bill is to repeal and replace the National Assembly Election Act, 1992.
2. The structure of the topics in the Bill has been charged to allow a smooth flow of the Electoral process that is in line with election phases. Starting with the registration of electors, registration of political parties, nomination process, election campaigns, voting process, election observation and electoral code of conduct, election petitions, administration and vacancy in members of the National Assembly.
3. The Bill has changed the nomenclature to the commonly used in election administration which easily convey the function performed. Take for example:
 - the presiding officer changed to “voting station manager”
 - the National Assembly Elections Act changed to “the National Assembly Electoral Act”
 - polling officer changed to “voting station officer”
 - polling changed to “voting”
4. The Bill gives effect to the Constitutional right of citizens to elect political leaders of their own choice by secret ballot.
5. It provides for members of the National Assembly to be elected in respect of eighty constituencies and other forty members to be elected in accordance with the system of proportional presentation.
6. Further, it make provision for political parties to form alliances for the

purpose of contesting elections.

7. The Bill has provided that a political party contesting elections to be entitled to apply for an election petition to the High Court in regard to the allocation of proportional representation seats.

8. It provides additional powers, duties and functions on the Independent Electoral Commission, procedures for registration of electors and political parties, the conduct of elections, procedures for determination of objectives and offences and their penalties.

9. Finally it repeals the National Assembly Election Act, 1992

