

**INTERPRETATION (AMENDMENT) ACT 1993****ACT NO. 4 OF 1993****[Date of Assent: 16 December 1993]**

**An Act to amend the Interpretation Act 1977<sup>1</sup> to provide Parliament with a power of disallowance of subsidiary legislation and to make other consequential amendments.**

**Enacted by the Parliament of Lesotho.**

**Short title**

1. This Act may be cited as the Interpretation (Amendment) Act 1993.

**Interpretation**

2. Section 3 of the Principal Act is amended in subsection (1) -
  - (a) by omitting the definition of "Act" and "enactment" and substituting the following definition:

"'Act' means any Act of the Parliament of Lesotho and any Proclamation, Law, Act or Order continued in force by virtue of section 156(1) of the Constitution of Lesotho;"

- (b) by omitting the definition of "Assembly";
- (c) by omitting the definition of "constitution" and substituting the following definition:

"'Constitution' or 'Constitution of Lesotho' means the document published as Government Notice No. 12 of 1993 and amended by Government Notice No. 28 of 1993 that came into operation as the Constitution of Lesotho on 2 April 1993;";

- (d) by omitting the definition of "District Administrator";
- (e) by omitting the definition of "magistrate";
- (f) by omitting the definition of "Minister" and substituting the following definition:

"'Minister' means the Prime Minister or a Minister appointed under section 87 of the Constitution;";

- (g) by inserting after the definition of "month" the following definition:

"'National Assembly' means the National Assembly referred to in the Constitution;";

- (h) by omitting the definition of "police officer" and substituting the following definition:

"'police officer' means a member of the Royal Lesotho Mounted Police;";

- (i) by omitting the definition of "the public service";
- (j) by inserting after the definition of "sell" the following definition:

"'Senate' means the Senate referred to in the Constitution";

- (k) by omitting the definition of "Speaker";
- (l) by inserting after the definition of "sign" the following definition:

"'sitting day' in relation to a House of Parliament means a day on which that House sits;";

- (m) by omitting from the definition of "subsidiary legislation" the words "and 'regulations'"; and
- (n) by inserting after definition of "subsidiary legislation" the following definitions:

"'the Minister' means -

- (a) the Minister for the time being administering the Act or other law in which, or in respect of which, the expression is used; or
- (b) if, for the time being, different Ministers are administering that Act or law in different respects, each of those Ministers to the extent that he or she is administering that Act or law in the relevant respect,



and includes a Minister for the time being acting on behalf of that Minister or each of those Ministers;

'the public service' has the same meaning as in the Constitution;"

### **General provisions with regard to power to make subsidiary legislation**

3. Section 23 of the Principal Act is amended by omitting from paragraph (e) "not exceeding 600 rand".

### **Construction of subsidiary legislation**

4. Section 25 of the Principal Act is amended by adding at the end the following words ", and this Act shall apply to any subsidiary legislation so made as if it were an Act and each provision of the subsidiary legislation was a section of an Act".

5. Section 27 of the Principal Act is repealed and the following sections substituted:

#### **Notification of subsidiary legislation**

"27. (1) Subsidiary legislation -

- (a) shall be published in the Gazette; and

- (b) takes effect on the day of publication or if the subsidiary legislation otherwise provides, as so provided.

### **Tabling and disallowance of subordinate law - National Assembly**

"27A. (1) In this section and section 27B "subordinate law" means -

- (a) regulations, rules or by-laws; or
- (b) a determination made by a Minister pursuant to a provision of an Act empowering him or her to determine, by notice in writing, fees or charges for the purposes of the Act,

but does not mean rules of court made by the Chief Justice or the President of the Court of Appeal for regulating the practice or procedure of any court, tribunal or body exercising judicial functions.

(2) A subordinate law shall be laid before the National Assembly within 15 sitting days after the date of publication of that law in the Gazette.

(3) If a subordinate law is not laid before the National Assembly in accordance with subsection (2), it ceases to have effect.

(4) If the National Assembly, pursuant to a motion of which notice has been given within 10 sitting days after a

subordinate law has been laid before it, by resolution disallows that law or a provision of that law, that law or provision ceases to have effect.

(5) If, at the expiration of 10 sitting days after notice of a motion to disallow a subordinate law or a provision of that law has been given in the National Assembly (being notice given within 10 sitting days after the legislation was laid before the National Assembly) -

- (a) the notice has not been withdrawn and the motion has not been called on; or
- (b) the motion has been called on and moved and has not been withdrawn or otherwise disposed of,

the subordinate law or provision specified in the motion shall be deemed to have been disallowed and ceases to have effect.

(6) If, before the expiration of 10 sitting days after notice of a motion to disallow a subordinate law or a provision of the law has been given in the National Assembly (being notice given within 10 sitting days after the legislation was laid before the National Assembly) -

- (a) the National Assembly is dissolved or prorogued; and
- (b) at the time of the dissolution or prorogation -
  - (i) the notice has not been withdrawn and the motion has not been called on; or



- (ii) the motion has been called on and moved and has not been withdrawn or otherwise disposed of,

the subordinate law shall, for the purposes of subsections (4) and (5), be deemed to have been laid before the National Assembly on the first sitting day of the National Assembly after the next general election of members of the National Assembly.

(7) Where a subordinate law or a provision of that law ceases to have effect under this section, that has the same effect as a repeal of that law or provision.

(8) Where a subordinate law or a provision of that law ceases to have effect under this section, any subordinate law that

was repealed in whole or in part by the first-mentioned subordinate law is revived from and including the date upon which the first-mentioned subordinate law ceased to have effect.

(9) If -

- (a) a subordinate law or a provision of that law is disallowed or is to be deemed to have been disallowed under this section; and
- (b) another subordinate law the same in substance, or containing a provision the same in substance, as the law or provision so disallowed or to be deemed to have been disallowed is made within 6 months,

that other law or provision is of no effect unless -

- (c) if the first-mentioned law or provision was disallowed by resolution - the National Assembly has rescinded the resolution; or
- (d) if the first-mentioned law or provision was deemed to have been disallowed - the National Assembly by resolution has approved the making of a subordinate law the same in substance, or containing a provision the same in substance, as the law or provision deemed to have been disallowed.

#### **Tabling and disallowance of subordinate law - Senate**

"27B. (1) A subordinate law shall be laid before the Senate within 15 sitting days after the date of publication of that law in the Gazette.

(2) If a subordinate law is not laid before the Senate in accordance with subsection (1), it ceases to have effect.

(3) The Senate may within 10 sitting days after a subordinate law has been laid before it, by resolution recommend that the law or a provision of the law be disallowed and where the Senate so recommends, it shall immediately notify the National Assembly of that recommendation.

(4) The National Assembly shall within 10 sitting days after receiving notification of a recommendation by the Senate under subsection (3), accept or reject that recommendation.

(5) If the National Assembly does not consider and dispose of the recommendation transmitted to it by the Senate



under subsection (3) within 10 sitting days, the recommendation shall be deemed to have been accepted by the Assembly on the next sitting day following the expiry of those 10 sitting days.

(6) Where the National Assembly accepts the recommendation of the Senate, or is deemed to have accepted the recommendation, the subordinate law, or the provision of that law, is deemed to have been disallowed under section 27A(4).

### **Retrospectivity**

"27C Subsidiary legislation shall not be expressed to take effect from a date before the date of its publication in the Gazette where, if the legislation so took effect -

- (a) the rights of a person (other than the Government of Lesotho or a statutory corporation) existing at the date of publication would be affected in a manner prejudicial to that person; or
- (b) liabilities would be imposed on a person (other than the Government of Lesotho or a statutory corporation) in respect of any act or omission before the date of publication,

and where any subsidiary legislation contains a provision in contravention of this section that provision is void and of no effect.".

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**Evidence of signature of Attorney-General or Director of Public Prosecutions**

6. Section 60 of the Principal Act is amended by omitting "Solicitor-General" wherever occurring and substituting "Attorney-General".

**Rectification**

7. Section 62 of the Principal Act is amended by omitting "Solicitor-General" and substituting "Attorney-General".

**Reprint of laws**

8. Section 63 of the Principal Act is amended by omitting "Solicitor-General" and substituting "Attorney-General".

**LETSIE III  
KING OF LESOTHO**

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**NOTES**

The explanatory memorandum to the Interpretation (Amendment) Bill 1993 that was introduced into the National Assembly on 23 September 1993 is published as Government Notice No. 84 of 1993.

Act No. 17 of 1977