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## CONTENTS

**No.**

**Page**

## LEGAL NOTICE

78 Public Service Regulations, 2008 ..... 917

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## LEGAL NOTICE NO. 78 OF 2008

**Public Service Regulations, 2008****Regulations**

## CHAPTER I - PRELIMINARY

1. Citation and commencement
2. Interpretation
3. Conditions of service under other laws
4. Modification of regulations
5. Power to delegate
6. Public service forms

## CHAPTER II – APPOINTMENTS, MOBILITY AND TERMINATION OF SERVICE

## Part A – Appointments

*Division I – Appointment into the public service*

7. Delegation of power to appoint public officers
8. Permanent and pensionable terms
9. Contract terms
10. Temporary terms
11. Casual terms
12. Medical examination
13. Oath of office and secrecy
14. Posting on first appointment
15. Next of kin and beneficiary
16. Secondment appointment
17. Acting appointment
18. Special assignment
19. Ministerial appointment

***Division II – Recruitment***

20. Recruitment and selection policy
21. Employment process
22. Establishment of positions
23. Advertisement of positions and screening of applications

***Division III – Selection***

24. Competency assessment
25. Short-listing of candidates
26. Selection of best candidate
27. Expenses incurred for purpose of interview on first appointment
28. Offer of appointment
29. Assumption of duty
30. Development assessment

**Part B – Staff Mobility**

31. Promotions
32. Transfer of public officers
33. Settlement allowance and accommodation on transfer
34. Compensation for damages on transfer
35. Redeployment
36. Mobility of officers from other authorities

**Part C – Termination of appointment**

37. Retirement procedure
38. Retirement on medical grounds
39. Resignation
40. Dismissal
41. Terminal benefits
42. Death of an officer
43. Certificate of service

---

## CHAPTER III – REMUNERATION, BENEFITS AND ALLOWANCES

### Part A – Remuneration

44. Remuneration policy
45. Job evaluation and grading system
46. Salary entitlement and payment
47. Incremental credit on first appointment
48. Salary on promotion
49. Salary during absence without permission

### Part B – Benefits

50. Determination on types of benefits
51. Car Loan Scheme
52. Housing Loan Guarantee Scheme
53. Medical Aid Scheme
54. Public Officer's Defined Contribution Pension Fund
55. Government housing
56. Government vehicle
57. Utilisation of Government vehicles
58. Management of benefits

### Part C – Allowances

59. Determination of allowances
60. Acting allowance
61. Local subsistence allowance
62. Entertainment allowance
63. Hardship allowance
64. International subsistence allowance
65. Training allowance
66. Dependant's allowance
67. Excess baggage allowance
68. Sitting allowance
69. Motor mileage allowance
70. Equine allowance
71. Hospitality allowance
72. Retention allowance
73. Claims for allowances

#### CHAPTER IV – LEAVE OF ABSENCE

- 74. Annual leave
- 75. Leave year
- 76. Non accumulation of leave
- 77. Payment in-lieu of leave
- 78. Days of rest for officers on long-term training
- 79. Compassionate leave
- 80. Sick leave
- 81. Maternity leave
- 82. Unpaid leave

#### CHAPTER V – PERFORMANCE MANAGEMENT SYSTEM

- 83. Performance management
- 84. Performance contracts
- 85. Operational plans
- 86. Individual work plan
- 87. Performance appraisal
- 88. Performance rewards

#### CHAPTER VI – ORGANISATIONAL DEVELOPMENT

- 89. Communication
- 90. Reporting
- 91. Monitoring and evaluation

#### CHAPTER VII – TRAINING AND DEVELOPMENT

- 92. Training and Development Policy
- 93. Training and development plans
- 94. Types of training
- 95. Eligibility for training and development
- 96. Study leave for training and development
- 97. Bonding agreement
- 98. Sponsored programmes

---

## CHAPTER VIII – FOREIGN SERVICE

### Part A – Interpretation

99. Interpretation

### Part B – Application

100. Application of this Chapter  
101. Application of other Chapters

### Part C – Appointments

102. Service abroad  
103. Posts in diplomatic missions  
104. Positions in consular posts  
105. Acting appointment and allowance

### Part D – Taxation

106. Taxation

### Part E – Allowances

107. Determination of allowances  
108. Non-accountable foreign service allowance  
109. Acting allowance  
110. Education allowance  
111. Accountable entertainment allowance  
112. Children's allowance at post and separate domicile allowance  
113. Travel and subsistence allowance  
114. Allowance for spouse or child  
115. Allowance for servants  
116. Clothing allowance  
117. Hardship area  
118. Setting-up allowance  
119. Disturbance allowance  
120. Baggage allowance

### Part F – Benefits

- 121. Determination of benefits
- 122. Housing
- 123. Hotel accommodation
- 124. Travel and transport
- 125. Medical treatment

### Part G – Tour of duty

- 126. Tour of duty
- 127. Report to host country on recall or transfer

### Part H – Leave

- 128. Foreign service leave
- 129. Sick leave
- 130. Passage and leave on compassionate grounds
- 131. Passage and leave for domestic workers

### Part I – Other terms and conditions

- 132. Discipline in the foreign service
- 133. Insolvency
- 134. Marriage and divorce
- 135. Dress and foreign decorations

## CHAPTER IX – MISCELLANEOUS

- 136. Legal proceedings against officers
- 137. Health and safety
- 138. Compensation for occupational injuries
- 139. Safe custody of government property
- 140. Private employment and private interests
- 141. Disclosure of interest by public officers
- 142. Discipline in the public service
- 143. Active participation in politics

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## CHAPTER X – REPEALS

### 144. Repeal

LEGAL NOTICE NO. 78 OF 2008

### **Public Service Regulations, 2008**

Pursuant to section 29 of the Public Service Act 2005<sup>1</sup>, I,

### **SEMANO HENRY SEKATLE**

Minister responsible for public service, make the following regulations –

## CHAPTER I – PRELIMINARY

### **Citation and commencement**

1. These Regulations may be cited as the Public Service Regulations 2008 and shall come into operation on the date of publication in the Gazette.

### Interpretation

2. (1) In these Regulations, unless the context otherwise requires-

“Act” means the Public Service Act of 2005;

“adopted child” means a child who is adopted in accordance with the Adoption of Children Proclamation 1952<sup>2</sup> and Sesotho custom;

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

“casual officer” means an officer appointed to perform a specific duty, the completion of which terminates his or her employment;

“child” means a child born in or out of marriage of a public officer, including a step-child and legally adopted child, who

is dependent on the officer, is not married and has not passed his or her eighteenth birthday;

“Code” means a code of practice issued by the Minister in accordance with section 15 of the Act;

“competency assessment” means a test used to measure a combination of an individual’s abilities to perform specific job with specific requirements;

“contract officer” means an officer who has entered into a written contract of employment with the Government in terms of regulation 9;

“dependant” means a member of a public officer’s immediate family or such other relative who is dependent upon the officer for maintenance as the Minister may determine for the purpose of these Regulations;

“development assessment” means a test used to measure an individual’s development needs and potential;

“family” means a public officer’s legal spouse and children;

“Government Secretary” means an officer appointed pursuant to sections 139(1) of the Constitution and 11 of the Act;

“Head of Department” means the chief accounting officer in a ministry, department or agency;

“Head of Section” means a public officer who is in charge of a section in a ministry, department or agency;

“Medical Board” means the Board established by the Minister responsible for health under regulation 38;

“medical practitioner” means a medical practitioner registered as such under the Lesotho Medical and Dental Order 1970<sup>3</sup> or any law of another country;

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

“Principal Secretary” means the Principal Secretary responsible for the Ministry of the Public Service;

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

“temporary officer” means an officer who is serving in a temporary capacity for a period not exceeding 6 months.

(2) A circular, policy, instruction or the like made under the authority of the repealed Act or Regulations, shall remain in force until such time as it shall have expired or have been revoked, replaced or cancelled by a provision of these Regulations.

(3) These Regulations shall be read as one with the Act and words and expressions used have the same meaning as in the Act, unless the contrary intention appears.

### **Conditions of service under other laws**

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

### **Modification of regulations**

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

### **Power to delegate**

5. If a regulation imposes a duty or confers a power on an officer, the officer may, in writing, delegate that power or that duty to a specified officer, and

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

### **Public service forms**

6. The Minister shall determine forms to be applicable for the management of the public service which shall be published in the Gazette.

## **CHAPTER II – APPOINTMENTS, MOBILITY AND TERMINATION OF SERVICE**

### **Part A – Appointments**

#### ***Division I – Appointment into the public service***

### **Delegation of power to appoint public officers**

7. The Commission may, with the consent of the Prime Minister and by directions in writing and subject to such conditions as it thinks fit, delegate to the Head of Department its power under section 6 of the Act to engage officers on temporary, casual, contract and permanent and pensionable terms.

### **Permanent and pensionable terms**

8. (1) An appointment on permanent and pensionable terms shall be made by the Commission or any other person so authorized by the Commission.

(2) An officer appointed on permanent and pensionable terms shall serve a probationary period of 12 months, except an officer who has, immediately prior to the appointment, served on contract terms and has, to the satisfaction of the Head of Department, competently performed his or her duties under the contract.

(3) The officer shall sign a letter, which shall be in such form as the Minister may determine, offering conditional appointment in quintuplicate, retain the original and return the 4 copies to the Head of Department.

(4) A Head of Department of a probationer shall ensure that-

- 
- (a) at the commencement of the 12 months probationary period, the probationer knows the performance and other requirements for obtaining confirmation in appointment; and
  - (b) the probationer, on a quarterly basis, is appraised and receives written feedback on his or her performance and compliance with other requirements.

(5) The Human Resources Department shall ensure that the probationer is oriented and receives formal induction in accordance with the Training and Development Policy.

(6) The Head of Department shall, at least, 3 months before the expiry of the officer's probationary period, recommend the probationer for confirmation in appointment to the Commission if he or she has competently performed his or her duties and obligations during the period of probation.

(7) If the Head of Department considers the probationer not fit in terms of performance, he or she may for reasons of poor performance and after a fair hearing, make a recommendation to the Commission for termination of the probationer's appointment.

(8) The Commission or probationer may, at any time during the probation period, terminate the appointment giving 1 calendar month notice or pay a month's salary in lieu of notice.

(9) At the end of the probation period, the officer shall be confirmed to the permanent and pensionable appointment if he or she has competently performed his or her duties.

(10) If at the end of the probation period the confirmation has not been processed, the probationer shall be deemed to have been confirmed.

(11) Failure on the part of the supervisor to process confirmation of the probationer shall be an offence liable to disciplinary action under the Disciplinary Code.

(12) The terms of all serving officers appointed in the public service on temporary and non-pensionable terms before the coming into operation

of the Act shall be varied to permanent and pensionable.

### **Contract terms**

9. (1) A contract appointment shall be for a period not exceeding 3 years and shall only be made if the position has unique occupational terms and conditions or the position is associated with projects that have a specific ending date.

(2) Notwithstanding sub-regulation (1), where the Minister considers it necessary to award a contract of more than 3 years term, the Minister shall make a proposal to the Commission or any other person so authorized by the Commission.

(3) An application for a contract appointment shall be made to the Minister by the relevant ministry, department or agency or other relevant appointing authority.

(4) The duration of a contract appointment for the Government Secretary and a Principal Secretary shall be in accordance with section 11 of the Act.

(5) An offer of appointment on contract shall be classified into local or expatriate, and shall be made on the appropriate form.

(6) The Principal Secretary shall prepare a written contract in a prescribed form which shall specify the terms and conditions of service.

(7) An officer appointed on contract terms shall sign the contract in sextuple and retain the original as acceptance of terms and conditions set out in that contract.

(8) Other matters relating to conditions of service for a contract officer shall be as prescribed in the letter of appointment as part of the contract.

### **Temporary terms**

10. (1) Where the Commission delegates the Head of Department to engage an officer on temporary terms under regulation 7, the Human Resources Department shall follow the recruitment procedure outlined in Part

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A and make a recommendation to the Head of Department for approval.

(2) A temporary appointment shall be for a specific function or activity and shall be for a period not exceeding 6 months.

(3) An officer appointed on temporary terms shall be paid wages in arrears.

### **Casual terms**

11. (1) Where the Commission delegates the Head of Department to engage an officer on casual terms under regulation 7, the Human Resources Department shall follow the recruitment procedure outlined in Part A and make a recommendation to the Head of Department for approval.

(2) A casual officer may be appointed if there is a need to employ a person to perform some specific work, the completion of which shall terminate the contract.

(3) An officer on casual appointment may be paid on an hourly rate and the wages shall be proportionate to hours of work.

### **Medical examination**

12. (1) An offer of appointment shall not be made to an officer unless the officer submits to the Head of Department, a certificate of medical fitness obtained from a registered medical practitioner or hospital.

(2) The officer shall not be required to disclose his or her HIV status.

### **Oath of office and secrecy**

13. (1) A public officer shall, before assumption of duty, take an oath of office and secrecy which shall be in such a form as may be determined by the Minister.

(2) A public officer shall be responsible for the protection and confidentiality of classified or secret information.

(3) A public officer who discloses information which is in his or her protection and confidentiality commits an offence which shall be dealt with under the Disciplinary Code.

### **Posting on first appointment**

14. Subject to the provisions of the Act and these Regulations an officer may be posted to any public office in or outside Lesotho by the Minister or within the Ministry, Department or Agency by the Head of Department with the concurrence of the relevant Minister as may be necessary for operational requirements of the job.

### **Next of kin and beneficiary**

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

### **Secondment appointment**

16. (1) The Head of Department may, with the concurrence of the relevant minister, nominate a public officer in his or her ministry, department or agency to be seconded to an organization outside the public service for a period not exceeding 3 years, if the secondment has direct benefits to the ministry, department or agency and such secondment shall be made with the consent of the officer.

(2) Notwithstanding sub-regulation (1), a public officer who wishes to be seconded may make an application to his or her Head of Department who shall seek the concurrence of the relevant Minister.

(3) The Head of Department shall after receiving concurrence in terms of sub-regulations (1) and (2) above, process the nomination or application with the Commission or any other relevant appointing authority.

(4) Where the Commission or other relevant appointing authority has authorized the secondment, that secondment shall run for a period of one tour (3 years), and thereafter the seconded officer shall return to his or her substantive post, or similarly graded position in the public service, but the second-

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ment may be renewed once on the recommendation of the relevant Minister.

(5) The seconded officer shall ensure that he or she contributes to his or her pension in accordance with the pension law during the period of the secondment.

(6) The terms and conditions of secondment shall be clearly spelt out in the letter of secondment or on a relevant form.

### **Acting appointment**

17. (1) An officer may be appointed to act for a period not exceeding 3 months, in a post that is in his or her direct line of promotion in the event that the holder of the post is granted leave of absence or to perform those duties in the event that the position is substantively vacant while recruitment is underway.

(2) Where a vacant position is to be filled in an acting capacity, the Head of Department shall report the matter to the Commission in accordance with the procedure set out in the Commission Rules.

(3) Posts that qualify for acting appointment are those from Grade F and above provided the substantive holder of the post is in charge of a section.

(4) Officers who are entitled to act in senior offices are those who serve from Grade E and above.

### **Special assignment**

18. (1) A public officer may be temporarily assigned duties of a different or similarly graded position within the public service for a period not exceeding 3 years and thereafter the officer shall return to his or her substantive post or similarly graded position.

(2) Notwithstanding sub-regulation (1), a public officer may be assigned to a non political position (including that of a secretary, chauffeur or a special assistant) in the office of a government minister the duration of which shall be upon the minister's tenure of office.

(3) Terms and conditions relating to employment of an officer on special assignment shall be as set out in the officer's letter of appointment.

### **Ministerial appointment**

19. (1) A public officer who wishes to be appointed to a political position (including that of a private secretary or personal aide) in the office of a government minister shall vacate his or her position by resignation or retirement before assuming responsibilities of the government minister's personal staff position.

(2) The appointment of an officer to any government minister's personal staff is upon the minister's tenure of office and the officer's engagement shall be terminated along with that of a minister.

(3) Terms and conditions relating to employment of an officer under this regulation shall be as set out in the officer's letter of appointment.

(4) Upon termination of an appointment of a public officer appointed to a political position the officer may be considered for appointment, upon application, to a non-political position in the public service if he or she meets the requirements of the job.

## ***Division II – Recruitment***

### **Recruitment and selection policy**

20. A recruitment and selection policy made pursuant to section 10(2)(b) of the Act shall be adhered to by all public officers involved in the recruitment and selection process.

### **Employment process**

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

### **Recruitment against established positions**

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

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## **Advertisement of positions and screening of applications**

23. The Human Resources Department in every ministry, department or agency shall –

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

### ***Division III – Selection***

#### **Competency assessment**

24. (1) An applicant for a position at Grade H and above who meets the job requirements of a specified job shall undergo a competency assessment.

(2) The competency assessment shall be the responsibility of the Human Resources Department of each ministry, department or agency and shall only be performed by professional and certified assessors.

(3) All competency assessment decisions shall be recorded, filed and stored for 5 years after which they shall be destroyed.

#### **Short-listing of candidates**

25. (1) A shortlist of applicants, based on a preliminary interview and/or assessment results, shall be prepared by the Human Resources Department, in consultation with the Line Manager and approved by the Head of Department and the relevant Minister.

(2) The approved shortlist shall be submitted to the Commission for determination.

**Selection of best candidate**

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

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

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

**Offer of appointment**

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

**Assumption of duty**

29. The successful candidate shall report for duty within a period of 30 days from the date the offer of appointment was made. Where the candidate cannot report for duty within the specified time he or she shall contact the Human Resource Department in the relevant ministry, department or agency concerned to make alternative arrangements.

**Development assessment**

30. (1) A candidate entering Grade F and G, if it is an entry level, shall undergo a development assessment to determine the candidate's potential, competency profile and suitability to perform in a certain career or job.

(2) The development assessment shall only be used for proper placement, establishment of training needs and future career development.

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## Part B – Staff Mobility

### **Promotions**

31. (1) Promotions within the public service shall be based on merit and, among other things, appropriate and relevant experience, consistent, good performance and good conduct and availability of vacant positions.

(2) Notwithstanding sub-regulation (1) above, promotions shall be made through preliminary interviews or competency assessment where appropriate.

(3) Promotions within the public service shall be made through assessment and based on merit and/or amongst others, appropriate and relevant experience, consistent good performance, and good conduct.

### **Transfer of public officers**

32. (1) The Principal Secretary may transfer a public officer to work anywhere within the public service with the concurrence of the Minister and in consultation with the Head of Department of the receiving ministry, department or agency.

(2) The Principal Secretary may, with the concurrence of the Minister, transfer a public officer from the public service to another service and such transfer shall be authorized by the Commission acting in consultation with the receiving appointing authority.

(3) A Head of Department may transfer a public officer within the relevant Ministry, department or agency.

(4) Where a Head of Department transfers a public officer to another ministry, department or agency he or she shall consult the Head of Department of the receiving ministry, department or agency and each shall seek the concurrence of the relevant Minister, and such transfer shall be authorized by the Principal Secretary.

(5) Where the transfer is to a new duty station which is a distance of 40km and above from the public officer's old duty station, the Head of Department shall notify the officer of the transfer, at least, 3 months before the

date of transfer except where immediate transfer is necessary for operational requirements.

(6) An officer may be transferred temporarily for a period not exceeding 3 months, but if the exigencies of the work so require the transfer may be extended for another 3 months.

(7) An officer who fails to comply with the instructions to be transferred is liable for a disciplinary action in accordance with the Disciplinary Code.

(8) An officer on transfer is entitled to transport for himself or herself and his or her family and effects, if the officer's new duty station is a distance of 40km and above from that officer's old duty station.

### **Settlement allowance and accommodation on transfer**

33. (1) An officer who is transferred within Lesotho is entitled to settlement allowance at the rate to be determined by the Minister, in consultation with the Minister responsible for Finance, if the officer's new duty station is a distance of 40km and above from his or her old duty station.

(2) An officer on transfer shall, on arrival at his or her new duty station stay at a hotel at the expense of the government for a period not exceeding 1 month, but in the case of a temporary transfer he or she shall stay at a hotel for a period not exceeding 3 months if he or she is unable to find other accommodation.

### **Compensation for damages on transfer**

34. Where an officer incurs loss of or damage to property in the course of the transfer, the Head of Department in the Ministry of Finance may compensate the officer for the loss or damage, if satisfied that –

- (a) the damage did not occur as a result of negligence or carelessness on the part of the officer in the removal, delivery or acceptance of the effects;
- (b) the packers or carriers cannot be held liable for the damage or loss;

- 
- (c) the damage has been assessed by some impartial and qualified person, whose assessment is furnished with the claim; and
  - (d) the probable cause of damage or loss is as set out in a full statement furnished with the claim by the officer.

### **Redeployment**

35. (1) A public officer may be redeployed within the public service to a different position which is similarly graded and in line with his or her qualification for reasons including the following -

- (a) ill health;
- (b) abolition of a department or the position is redundant; and
- (c) the officer is found to be misplaced in his or her current position or is underutilized.

(2) Redeployment shall be authorized by the Commission or any other relevant appointing authority.

### **Mobility of officers from other appointing authorities**

36. (1) A public officer who was appointed by another appointing authority and has taken up employment with the public service within six months after termination of service with the authority, shall have his or her continuous period of service with the authority taken into account for purposes of calculating his or her length of service with the public service.

(2) For purposes of sub-regulation (1), the period which may have elapsed between the date upon which the public officer's service with the authority terminated and the date upon which his or her service in terms of the Act commences is regarded as leave without pay and not service for pension purposes.

## Part C – Termination of Appointment

### **Retirement procedure**

37. (1) A public officer shall retire from the public service on attaining the age of 60 years.

(2) A public officer may, by written notice to his or her Head of Department, voluntarily retire from the public service on attaining the age of 50 years.

(3) Notwithstanding sub-regulations (1) and (2), a public officer who was already employed in the public service before 1st of April 2005, who intends to retire at the age of 45 or 55 pursuant to section 26 of the Act shall notify the Minister, in writing, before 31 August 2008, but the officer is entitled to withdraw the notice only once.

(4) Notwithstanding sub-regulation (3), the appointment may be terminated in accordance with the officer's letter of appointment.

### **Retirement on medical grounds**

38. (1) The Minister responsible for Health shall, for the purpose of this regulation, appoint a Medical Board.

(2) If the Head of Department is of the opinion that an officer is incapable of performing his or her duties by reason of infirmity of body or mind, the Head of Department shall submit a report to the Medical Board, which shall be in such a form as the Minister responsible for Health may determine, and shall spell out the extent of incapacity in relation to the job.

(3) The Medical Board shall enquire into the officer's physical or mental condition and submit its findings and recommendations to the Commission for consideration and final determination.

(4) An officer may be required to present himself or herself to the Medical Board for assessment and to afford the officer an opportunity to make representations to the Medical Board.

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(5) If an officer does not comply with sub-regulation (3), the fact shall be reported to the Commission which shall make a decision.

## **Resignation**

39. (1) An officer serving on pensionable terms may resign his or her appointment by giving 1 calendar month's notice or paying an amount in cash in lieu of notice, which shall be equivalent to his or her gross salary.

(2) Notwithstanding sub-regulation (1), an officer on Grade I and above shall give 3 months' notice or pay an amount in cash in lieu of notice, which shall be equivalent to his or her gross salary.

(3) An officer serving on contract may resign his or her appointment in accordance with the relevant provision in his or her letter of appointment, and where no provision is made the officer shall give at least 1 month's notice or make payment of an amount, in cash, equivalent to 1 month's gross salary.

(4) An officer serving on temporary or casual terms may resign his or her appointment by giving 24 hours notice or making payment of an amount equivalent to 24 hours of work.

(5) Notice under this regulation shall be given to the Head of Department who shall submit it to the Commission or other relevant appointing authority.

(6) Where an officer who has been charged with a breach of discipline resigns from the public service before the charge has been dealt with to finality in accordance with the provisions of the Disciplinary Code, the disciplinary proceedings on the charge of breach of discipline shall continue against him or her notwithstanding the officer's resignation.

## **Dismissal**

40. A public officer's appointment may be terminated by the Head of Department by way of dismissal for a misconduct after a fair hearing instituted in accordance with the Disciplinary Code.

**Terminal benefits**

41. (1) An officer who is dismissed or resigns from the public service forfeits his or her gratuity and pension.

(2) Notwithstanding sub-regulation (1), where an officer has contributed to a Public officer's Defined Contribution Pension Fund, the officer shall be entitled to only his or her contributions together with the compound interest at the ruling rate.

**Death of an officer**

42. A public officer's appointment shall be terminated upon the officer's death.

**Certificate of service**

43. A certificate of service shall be issued to an officer, on request, when the officer leaves the public service and shall be in such form as the Minister may determine.

**CHAPTER III – REMUNERATION, BENEFITS AND ALLOWANCES****Part A – Remuneration****Remuneration policy**

44. (1) A remuneration policy made pursuant to section 10(2)(c) of the Act shall provide guidelines for job analysis, job descriptions and job profiling and shall be adhered to by all ministries, departments and agencies.

**Job evaluation and grading system**

45. (1) The Minister shall, after consultation with an association, if any, recognised by the Minister pursuant to section 22(2) of the Act, determine methods and systems for job evaluation and grading in the public service to determine the value and appropriate remuneration for all jobs in the public service.

(2) All jobs shall be subject to evaluation and grading by the

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Ministry responsible for the public service.

### **Salary entitlement and payment**

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

### **Incremental credit on first appointment**

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

### **Salary on promotion**

48. (1) An officer promoted to a vacant office shall receive a salary of the new office from the date on which the officer takes up duty in the office.

(2) If on promotion the officer's old salary is equal to or above the minimum of his or her new salary scale, the officer shall enter that scale at the next point above the salary of his or her old scale.

### **Salary during absence without permission**

49. (1) If an officer absents himself or herself from duty without permission, the principle of no work no pay shall apply without prejudice to any disciplinary action which may be undertaken under the Disciplinary Code.

(2) If an officer is aggrieved by an action under sub regulation (1), the officer may institute an action in accordance with the grievance procedure set out in the Grievance Code.

## **Part B – Benefits**

### **Determination on types of benefits**

50. The Minister shall, in consultation with the Minister responsible for

Finance and after consultation with an association, if any, recognized by the Minister pursuant to section 22(2) of the Act, determine benefits for public officers.

### **Car loan scheme**

51. (1) An officer who has been confirmed in permanent and pensionable appointment or serving on contract terms who requires a motor vehicle for private and official use, is eligible for a loan for the purpose of purchasing a motor vehicle in accordance with the Remuneration and Benefits policy.

(2) For the purpose of this regulation, an officer appointed on secondment shall be regarded as holding such an office substantively for the purpose of qualifying for a loan.

### **Housing loan guarantee scheme**

52. (1) An officer who wishes to purchase a house, complete an ongoing house construction, build a new house or renovate a house is eligible for a mortgage loan in accordance with the Remuneration and Benefits policy.

(2) An officer eligible for consideration for a housing loan by the banks operating under the Scheme shall be an officer who -

- (a) is appointed on permanent and pensionable terms and has been confirmed in appointment;
- (b) is serving on contract terms, and is eligible for gratuity to secure the amount guaranteed by the Government;
- (c) has a satisfactory disciplinary record and does not have a pending disciplinary case;
- (d) does not have another existing mortgage loan with any financial institution.

(3) The Minister shall determine the maximum entitlements for housing loans.

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### **Medical aid scheme**

53. An officer serving on permanent and pensionable or contract terms of service is eligible to join a medical aid scheme, where such a scheme exists within the public service to which both the government and public officers shall contribute a percentage to be determined by the Minister in consultation with the Minister responsible for Finance if the officer qualifies for membership under the requirements of the Scheme.

### **Public Officers' Defined Contribution Pension Fund**

54. (1) An officer serving on permanent and pensionable terms who is 40 years and below is eligible to a pension fund to which both the employer and the officer shall contribute a percentage in accordance with the Public Officer's Defined Contribution Pension Fund Act.

(2) Notwithstanding sub-regulation (1), an officer serving on permanent and pensionable terms, who is above the age of 40 years may become a member of the fund in a manner to be set out by the Minister responsible for Finance.

### **Government housing**

55. (1) A public officer who is on Grade F and above and is appointed on permanent and pensionable or contract terms may apply to the Housing Technical Committee for a Government house, in accordance with the policy on allocation and utilization of Government owned houses.

(2) A public officer who is allocated a Government house shall be obliged to sign a tenancy agreement before occupation of a house.

### **Government vehicle**

56. (1) Public officers in categories of posts to be determined by the Principal Secretary in consultation with Minister are eligible to Government vehicles for the performance of their duties.

(2) The Principal Secretary shall publish a list of posts whose holders qualify for a Government vehicle.

**Utilization of Government vehicles**

57. (1) A Head of Department shall ensure that after normal working hours, over weekends and during holidays all vehicles are parked.

(2) Notwithstanding sub-regulation (1), the Head of Department may issue a special permit authorizing utilization of vehicles for official purposes after normal working hours, over weekends and during holidays with the concurrence of the relevant Minister.

(3) Any Government vehicle travelling without a permit shall be confiscated by a police officer-in-charge and a disciplinary action shall be taken against a public officer who is found to have misused a Government vehicle and the officer's Head of Department for negligence.

**Management of benefits**

58. The Minister shall develop policies and procedures for the management of the benefits in the public service.

**Part C – Allowances****Determination of allowances**

59. (1) The Minister shall, with the advice of the Minister responsible for Finance and after consultation with an association, if any, recognised by the Minister pursuant to section 22(2) of the Act, determine allowances for public officers.

(2) An allowance shall not be regarded as salary and shall not form part of the calculations when determining pension and gratuity.

(3) No allowances shall be paid without the written approval of the Minister.

**Acting allowance**

60. Acting allowance is payable to an officer who is appointed to act in a senior office in the absence of the substantive holder of that office in accordance with regulation 17.

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### **Local subsistence allowance**

61. (1) Local subsistence allowance is payable to an officer who spends a night away from his or her duty station.

(2) When periods of absence on duty do not include a night away from the officer's duty station, reasonable out-of-pocket expenses incurred during such periods shall be reimbursed, if the claim is supported by receipted bills.

### **Entertainment allowance**

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

### **Hardship allowance**

63. (1) Hardship allowance shall be payable to officers stationed in the areas determined by the Minister as hardship areas.

(2) The Principal Secretary shall issue a list of hardship areas.

### **International subsistence allowance**

64. (1) International subsistence allowance shall be paid to an officer who travels outside Lesotho on official duty and spends the night away from his or her duty station at such a rate as may be determined by the Minister in consultation with the Minister responsible for Finance.

(2) If the officer attends a meeting or conference that is fully sponsored by the host country or organisation, the employer shall pay such officer 25% of the country's per diem to take care of incidental out-of-pocket expenses.

(3) If the meeting or conference is not sponsored by the host country or organization, the employer shall pay such officer the full rate of the country's per diem to take care of incidental out-of-pocket expenses.

**Training allowance**

65. (1) Training allowance shall be paid to an officer who is proceeding on a short-term training course outside the country in order to take care of the officer's incidental out-of-pocket expenses during the period of training.

(2) If the officer attends a course that is fully sponsored by the host country or an organization, the employer shall pay the officer 10% of the country's per diem to take care of incidental out-of-pocket expenses.

(3) If the course is not sponsored by the host country or organisation, the employer shall pay such an officer the full rate of the country's per diem to take care of incidental out-of-pocket expenses.

**Dependant's allowance**

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

**Excess baggage allowance**

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

- (a) the allowance shall not exceed the cost of transporting 20 kilograms of excess baggage accompanying the officer by air (whether the baggage accompanies the officer on his or her journey or not); and
- (b) an additional allowance shall be payable to the officer in respect of surface transport of excess baggage not exceeding 120 kilograms in weight on return journey only.

**Sitting allowance**

68. An officer selected to be a member of a board, tribunal or other *ad hoc* or an administrative body created by law is entitled to a sitting allowance except where the officer is an ex-officio member.

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### **Motor mileage allowance**

69. Motor mileage allowance is payable to an officer who is authorised to use his or her motor vehicle for duty purposes, only to the extent of the authority given by the Head of Department with the concurrence of the relevant Minister.

### **Equine allowance**

70. Equine allowance is payable to an officer who is required to maintain a horse for the performance of his or her duties, only to the extent of the authority given by the Head of Department with the concurrence of the relevant Minister.

### **Hospitality allowance**

71. Where an officer accommodates another officer (host) overnight, the host shall be paid hospitality allowance by the accommodated officer.

### **Retention allowance**

72. Retention allowance is payable to an officer who possesses scarce skill for retention purposes.

### **Claims for allowances**

73. The Principal Secretary shall provide for adequate procedures for claiming allowances.

## **CHAPTER IV – LEAVE OF ABSENCE**

### **Annual leave**

74. (1) The Minister shall, after consultation with an association recognised by the Minister pursuant to section 22(2) of the Act, if any, determine the number of leave days an officer is entitled to per annum.

(2) A Head of Department shall ensure that leave rosters for his or her Department are kept, maintained and submitted to the Principal Secretary at the end of each leave year.

(3) An officer shall agree with his or her Sectional Head at least 3 days prior to proceeding on leave and the Head of Department shall ensure that the interests of the public service are not prejudiced by granting of leave in individual cases.

### **Leave year**

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

### **Non accumulation of leave**

76. (1) Annual leave shall be taken during the current leave year.

(2) Leave not taken during the current leave year shall not be carried forward to the next year, except in special cases on the authority of the Principal Secretary.

(3) Leave authorized to be carried forward shall not be allowed to accumulate beyond a quarter of the entitlement and shall be utilized in the next leave year failing which it shall be forfeited.

### **Payment in-lieu of leave**

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

### **Days of rest for officer on long-term training**

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

### **Compassionate leave**

79. The Minister shall, after consultation with an association recognised by the Minister pursuant to section 22(2) of the Act, if any, determine the number of days to be granted to an officer on compassionate grounds.

**Sick leave**

80. The Minister shall, after consultation with an association recognised by the Minister pursuant to section 22(2) of the Act, if any, determine the number of days to be granted to an officer who is absent from work on medical grounds.

**Maternity leave**

81. The Minister shall, after consultation with an association recognised by the Minister pursuant to section 22(2) of the Act, if any, determine the number of days to be granted to an expectant female officer for maternity purposes.

**Unpaid leave**

82. The Minister shall, after consultation with an association recognised by the Minister pursuant to section 22(2) of the Act, if any, determine the number of days to be granted to an officer who requested unpaid leave for reasons that need his or her attentions if the officer has expended all his or her annual leave.

**CHAPTER V – PERFORMANCE MANAGEMENT SYSTEM****Performance management**

83. (1) The Minister shall establish a Performance Management System in the public service whose main purpose is to enhance public officers' performance and productivity.

(2) Heads of Departments and Agencies shall be responsible and accountable for the effective application of the Performance Management System in their respective jurisdictions in accordance with the regulations and guidelines set out by the Minister.

**Performance contracts**

84. Officers on Grade I and above shall enter into performance contract with their immediate supervisors.

**Operational plans**

85. (1) Ministries, departments and agencies shall prepare annual operational plans which among others, shall set out the objectives and activities of that ministry, department or agency in accordance with the objectives stipulated in the national development plan as prepared by the Ministry of Finance and Development Planning.

(2) Ministries, departments and agencies shall align their budgetary planning with their operational plans during an annual budgetary period.

**Individual work plan**

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

**Performance appraisal**

87. (1) Performance Review shall be carried out at least twice a year.

(2) All officers on Grade H and above shall cause to be evaluated by their subordinates once a year.

**Performance rewards**

88. (1) The Minister in consultation with the Minister responsible for finance shall determine performance related pay to be awarded to public officers each year.

(2) Automatic annual increment shall cease to exist and shall be replaced by performance related pay at a date to be determined by the Minister by notice published in the Gazette.

**CHAPTER VI – ORGANISATIONAL DEVELOPMENT****Communication**

89. (1) Ministries, departments and agencies shall develop internal

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and external communication.

(2) Ministries, departments and agencies shall hold management meetings at least once every month.

(3) An officer shall not directly or indirectly reveal or use for private purposes any information otherwise than in the proper discharge of the officer's duties.

### **Reporting**

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

### **Monitoring and evaluation**

91. (1) Ministries, departments and agencies shall, at least twice a year (October and March) submit progress reports to the Ministry of Public Service to enable the Principal Secretary to monitor and evaluate performance and service delivery in the public service.

(2) The Principal Secretary, with the advice of the Government Secretary, shall collate the reports with emphasis on achievements and constraints.

## **CHAPTER VII – TRAINING AND DEVELOPMENT**

### **Training and Development Policy**

92. Pursuant to section 10(2)(b) of the Act, there shall be a Training and Development Policy developed by the Ministry responsible for the public service after consultation with an association, if any, recognised by the Minister pursuant to section 22(2) of the Act, whose main objective shall be to provide and maintain clear guidelines, that promote consistent decisions in the management of training and development.

### **Training and development plans**

93. (1) Training and development within the public service shall be in line with the national goals and priorities.

(2) All ministries, departments and agencies shall undertake Training Needs Assessment to determine their priorities and prepare their training and development plans, which shall, at the beginning of every year, be submitted to the Ministry of Public Service.

### **Types of training**

94. (1) Training and development may be carried out in the following forms -

- (a) short-term;
- (b) long-term;
- (c) on-the-job-training involving rotation, in-house training, attachment, part time, induction, exchange programmes and study tours which shall be of limited duration,

and shall be defined in the Training and Development Policy.

(2) Without limiting the generality of sub-regulation (1), the Minister may determine other forms of training.

### **Eligibility for training and development**

95. (1) Every public officer is entitled to training and development.

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

### **Study leave for training and development**

96. (1) A public officer may apply for study leave for a long-term training if the officer has satisfactorily completed his or her 12 months probationary period and is confirmed in appointment.

(2) Long-term training shall be in line with the officer's career

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development and the needs of the ministry, department or agency he or she is working for.

(3) The officer intending to go on study leave shall make an application to the Head of Department of his or her ministry who shall seek concurrence of the relevant Minister.

(4) Where the Minister responsible for the relevant ministry has concurred, the application shall be submitted to the Minister for approval.

(5) A public officer who is aged 50 years and above is eligible for study leave if the officer shall be able to serve his or her bonding agreement.

(6) A contract officer is only eligible for short term and part-time training on approval by the Minister.

(7) A public officer who proceeds on study leave before his or her study leave is approved by the Minister shall be deemed to have deserted the public service and is therefore liable for disciplinary action.

(8) An officer on study leave is not entitled to a full salary while on vacation and shall not resume the duties of his or her substantive post until he or she has completed training, but where the exigencies of work so require he or she may be paid such an allowance for services rendered as the Minister, in consultation with the Minister responsible for Finance, may determine.

### **Bonding agreement**

97. (1) A public officer shall, prior to proceeding on study leave, enter into a bonding agreement with the employer to the effect that the officer shall serve the public service as stipulated in the bonding agreement.

(2) The agreement shall be duly signed by the officer and his or her guarantor.

(3) If an officer terminates his or her appointment for any reason before the bonding period expires, he or she shall pay, forthwith, the outstanding amount of the loan, which shall be the officer's gross salary multiplied by the bonding period not served plus interest at the rate to be determined by the Minister with the advice of the Minister responsible for finance less the amount

paid while on study leave.

(4) Ministries, departments or agencies shall ensure that the emoluments are paid into appropriate accounts.

(5) If the public officer deserts the public service and cannot be traced, the guarantor shall be liable to pay the money owed to the Government or forfeit the guarantee.

(6) The provisions of this regulation shall not apply to an officer who is attending a short-term (less than 6 months) in-service-training programme.

(7) Death of the officer terminates the bonding agreement and the balance owed shall be written off.

(8) Legal action shall be instituted against an officer and or a guarantor who fails to comply with this regulation.

### **Sponsored programmes**

98. (1) An officer shall not accept a scholarship award or an invitation to attend a seminar or training course outside Lesotho or at a non-governmental institution within Lesotho without the approval of the Head of Department of the relevant ministry, department or agency and concurrence of the relevant Minister.

(2) Except where an officer is selected and nominated by the Government for a scholarship or invitation under sub-regulation (1), an officer who wishes to apply for a scholarship or attend a training course shall make an application to the Minister responsible for his or her Ministry for approval.

(3) The application shall be considered if the scholarship or training course is relevant to the duties of the post the officer concerned is occupying or is reasonably likely to occupy and will enable him or her to perform those duties.

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## CHAPTER VII – FOREIGN SERVICE

### Part A – Interpretation

#### **Interpretation**

99. In this Chapter unless the context otherwise requires-

“Head of Mission” means Ambassador or High Commissioner or Consul General or any other principal representative of Lesotho in another country;

“Minister” means the Minister responsible for foreign affairs and international relations;

“Ministry” means the Ministry of Foreign Affairs and International Relations;

“Principal Secretary” means the Principal Secretary responsible for the Ministry of Foreign Affairs and International Relations.

### Part B – Application

#### **Application of this Chapter**

100. This chapter applies only to members of the foreign service serving in diplomatic missions or consular posts abroad.

#### **Application of other Chapters**

101. Members of the foreign service serving in diplomatic missions or consular posts abroad are public officers in accordance with section 154 of the Constitution and are subject to the provisions of the other chapters of these regulations except where a provision of those chapters conflicts with a provision of this Chapter, which shall, in that case, apply to the extent of that conflict.

## Part C – Appointments

### **Service abroad**

102. (1) All public officers serving in diplomatic missions or consular posts abroad deployed in the Ministry of Foreign Affairs in Lesotho are fully interchangeable between posts abroad and posts in the Ministry of Foreign Affairs in Lesotho without distinction.

(2) A public officer transferred to diplomatic or consular posts abroad shall on conclusion of his or her tour of duty return to his or her substantive post or similarly graded post in the public service.

(3) A member of the foreign service in a diplomatic mission or consular post abroad who was not a public officer before joining the foreign service shall, on conclusion of his or her tour of duty, cease to be a public officer, but may apply for any vacant post in the public service.

(4) While serving in posts abroad such public officers are posted temporarily to the foreign service but are not necessarily committed to serving always in such posts and may be posted to the Ministry of Foreign Affairs in Lesotho as may be required by the exigencies of the service as a whole.

### **Posts in diplomatic missions**

103. The posts in diplomatic missions shall be as follows -

- (a) High Commissioner, Ambassador or Permanent Representative;
- (b) Deputy High Commissioner or Deputy Ambassador;
- (c) Minister Counsellor;
- (d) Counsellor;
- (e) First Secretary;
- (f) Third Secretary;

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- (g) Other Attaches;
  - (h) Administrative Attache II/I;
  - (i) Clerk/Typist/Receptionist/Document Officer;
  - (j) Driver.

### **Positions in consular posts**

104. A member of a consular post shall hold office within one of the following positions -

- (a) Consul General;
- (b) Assistant Consul General;
- (c) Consul;
- (d) Assistant Consul;
- (e) Vice Consul;
- (f) Assistant Vice Consul;
- (g) Consular Agent ; and
- (h) Assistant Consular Agent.

### **Acting appointment**

105. (1) When a Head of Mission leaves the country to which he or she is accredited, the next senior officer handling political work shall automatically assume charge of the mission as *Charge d’Affaires ad interim*.

(2) Where the post of Head of Mission is vacant, or if the Head of Mission is unable to perform his or her functions, a *Charge d’Affaires ad interim* shall act provisionally as Head of Mission.

(3) The *Charge d’Affaires ad interim* shall have full responsibility of all activities of the mission, its staff, accommodation, transport etc, and on the return of the Head of Mission to the country, the *Charge d’Affaires ad interim* shall automatically relinquish these responsibilities to the Head of Mission.

#### Part D – Taxation

##### **Taxation**

106. Basic salaries of members of the staff of a mission shall be taxable in Lesotho in accordance with any law relating to taxation and all foreign service allowance shall be exempt from taxation.

#### Part E – Service allowances

##### **Determination of allowances**

107. The Minister responsible for Public Service shall, on the advice of the Minister responsible for Foreign Affairs and International Relations and in consultation with Minister responsible for Finance, determine allowances applicable to the foreign service.

##### **Non-accountable foreign service allowance**

108. (1) A public officer serving in a diplomatic mission or consular post is eligible to receive an appropriate non-accountable foreign service allowance at the rate as prescribed by the Minister responsible for public service in consultation with the Minister responsible for Finance.

(2) Foreign service allowance is paid to enable a public officer generally to maintain himself or herself and his or her family in a condition and standard in which the officer will most usefully and conveniently be able to carry out his or her other duties as a representative of Lesotho in a foreign country.

(3) The allowance when added to the public officer’s salary is designed to enable that officer to meet from his or her combined emoluments, his or her overall living at his or her post including food and beverages, clothing, private transport, entertainment and recreation.

(4) A public officer is entitled to an appropriate foreign service allowance from the day on which he or she resumes duty at the post abroad, until the day he or she vacates that post.

(5) A public officer who draws subsistence allowance on arrival at or departure from his or her post shall not draw foreign service allowance.

(6) A public officer on vacation leave in Lesotho is entitled to foreign service allowance.

(7) The rates for non-accountable foreign service allowance shall be categorised into single and married rate taking into consideration the grade in which the officer is serving.

(8) An unmarried public officer shall receive a single rate and a married officer a married rate in the grade within which the officer is serving.

(9) A single public officer who marries or gets married shall receive the difference between the single and married rates in the grades in which he or she is serving upon marriage.

(10) A married public officer who for any reason is not accompanied by his or her spouse at the post shall be paid a single rate during the period when the spouse is away.

(11) Where a married public officer for any reason, through no fault of his or her own, cannot be accompanied by his or her spouse but is accompanied by his or her children, the public officer shall receive the single rate plus dependants' allowance at the prescribed rate for the period during which that officer's spouse is not with him or her.

### **Acting allowance**

109. (1) The *Charge d'Affaires ad interim* is entitled to draw an acting allowance in terms of these Regulations and the difference between his or her foreign service allowance and that of the Head of Mission.

(2) No acting allowance is payable where an officer is temporarily in charge of a mission under the control of a non resident Head of Mission.

(3) The post for which an acting allowance is payable when the holder of the post is for any reason absent, and the conditions under which acting allowances are payable are as follows -

- (a) posts which qualify for acting allowance shall be the post of the First Secretary and above;
- (b) the rates of acting allowances that are payable are subject to the following conditions -
  - (i) for the posts that are on fixed salaries scale, the rate shall be the difference, if any, between the public officer's substantive salary and that of the post in which he or she is appointed to act;
  - (ii) for posts that are not on fixed salary scale, the rates shall be the difference, if any, between the officer's substantive salary and the minimum salary scale of the post in which he or she is appointed to act;
- (c) where a decision has been taken to downgrade or close a mission abroad, no acting allowance shall be drawn by the officer in charge of the mission.

### **Education allowance**

110. (1) The Government shall pay full education expense for a child of and residing with a member of staff of the mission, from when the child is at the age of 3 and is at pre-school up to high school level. Such expenses shall include school fees and tuition.

(2) The child shall be enrolled in a school approved by the Head of Mission after consultation with the Principal Secretary.

### **Accountable entertainment allowance**

111. An accountable entertainment allowance shall be drawn from the funds allocated to the mission, by members of the diplomatic staff who shall be public officers from the rank of Third Secretary and above when so authorized to do so by the Head of Mission in accordance with the prescribed rates.

(2) A Head of Mission having responsibility for more than one mission shall be paid the representation allowance of the mission at which he or she is normally resident.

(3) Where the Head of Mission incurs expenses on entertainment at the mission at which he or she is non-resident, he or she shall be reimbursed in the form of an accountable entertainment allowance.

### **Children's allowance at post and separate domicile allowance**

112. (1) Where a public officer's children have accompanied the officer to his or her post abroad, the officer shall receive children's allowance in respect of each child who is below the age of 18 years.

(2) Children's separate domicile allowance shall also be payable for each dependant child not above the age of 18 when the parent is serving at a post abroad and the child or children are in Lesotho or at any other place approved by the Principal Secretary.

(3) The total number of children in respect of whom the parent receives children's allowance shall not exceed four.

(4) The rates for children's allowance shall be prescribed by the Minister of Public Service on the advice of the Minister in consultation with the Minister of Finance.

### **Travel and subsistence allowance**

113. (1) Where a public officer, with prior approval of the Head of Mission, travels on duty he or she shall be entitled to subsistence allowance at an applicable rate.

(2) The allowance shall be payable with effect from the date of departure from the country where the public officer is stationed up to the date of return to that country.

(3) A public officer who, in the course of a tour is recalled to Lesotho on duty shall draw subsistence allowance at the rate applicable to Lesotho.

(4) Where periods of absence on duty do not include a night away from an officer's station, reasonable out-of-pocket expenses incurred shall be reimbursed if the expenditure incurred is certified to be work-related by the Head of Mission and is supported by receipted bills.

### **Allowance for spouse or child**

114. Where a spouse or child of a public officer is eligible for subsistence allowance, the subsistence allowance applicable to the public officer shall also apply to the spouse or child, except that half the normal rate shall be paid in respect of a child under the age of 4.

### **Allowance for servants**

115. Subsistence allowance shall be payable at full rate in respect of a domestic servant of the Head of Mission on the way from and to Lesotho and on transfer to another mission.

### **Clothing allowance**

116. (1) On appointment to a post abroad a public officer, spouse and children shall receive clothing allowance at an applicable rate.

(2) The Minister of Public Service may, on the advice of the Minister in consultation with the Minister of Finance, determine for climatic reasons that an additional and special clothing allowance shall be paid to a public officer and his or her family.

(3) Additional and special clothing allowance shall also be paid to a Head of Mission, who is required to have special formal dress by the countries of accreditation.

### **Hardship area**

117. The Minister may designate certain areas to which public officers are posted as hardship areas and where such designation has been made the Principal Secretary may direct that special arrangement be made to enable officers to access basic amenities even beyond their country of accreditation.

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### **Setting-up allowance**

118. (1) A setting-up allowance shall be paid to all officers on appointment to a post abroad.

(2) The rates of the allowance shall be equivalent to 50% of an officer's monthly foreign service allowance he or she is entitled to upon arrival.

(3) For the purpose of setting-up, a public officer being posted abroad shall be provided with 4 sets of sheets with pillow cases and 1 set of bath towels. Each dependant child shall be provided with 2 sets of sheets with pillows cases and one set of bath towels.

(4) Items provided under sub-regulation (3) shall be considered as personal effects of the officers and shall not be included in the inventory list of Government property.

### **Disturbance allowance**

119. When an officer is transferred from one mission to another or recalled to Lesotho from a post abroad, he or she is entitled to a disturbance allowance, at the rate of 50% of the officer's monthly foreign service allowance.

### **Baggage allowance**

120. (1) A public officer on recall is entitled to baggage allowance to cover the cost of transporting his or her baggage and its insurance to Lesotho. Baggage shall include household effects and motor vehicles, which shall be imported into Lesotho duty free on the following conditions -

- (a) if travelling by sea, a single or married officers shall be entitled to the 60 foot containerized baggage which shall include household effects and 2 motor vehicles;
- (b) if travelling by road, a single or married officers shall be entitled to the 60 foot containerized baggage which shall include household effects and 2 motor vehicles;  
and

- (c) if travelling by rail, a single or married officers shall be entitled to the 250kg by passenger train plus 2500kg by goods train.

(2) A public officer, in addition to the conditions under sub-regulation (1), shall be entitled to send by air unaccompanied baggage of up to 100kg each for the officer and spouse, and up to 50kg for all the children.

## Part F – Benefits

### **Determination of benefits**

121. The Minister responsible for public service shall, on the advice of the Minister in consultation with the Minister responsible for Finance, determine benefits for public officers in the foreign service.

### **Housing**

122. (1) A public officer serving abroad shall be provided with and required to occupy, furnished accommodation, which may be rented, leased or owned by the Lesotho Government.

(2) When negotiating a lease, the mission shall obtain a diplomatic clause to enable it to terminate the lease at short notice in the event of a transfer before its expiry and in the case of a tenancy agreement, the mission shall secure the inclusion of a similar provision.

(3) The Government shall be responsible for expenses in respect of electricity, gas, heating oil, water, sewerage, garbage removal, as well as the maintenance of gardens and any other utilities or benefits as the Minister may, after consultation with the Minister of Finance, determine.

(4) In the case of the Head of Mission, the quarters shall be fully furnished with, among other things, cutlery, crockery, dish washer, microwave oven, washing machine and drier, refrigerator, deep freezer, soft furnishings, a television set with a DVD player and music system and any other such items as the Minister may, after consultation with the Minister of Finance, determine.

(5) In the case of public officers of the other ranks, quarters shall be provided with hard furnishings, curtains, dishwasher, washing machine and

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drier, refrigerator, deep freezer and microwave and any such other items as the Minister may, after consultation with the Minister of Finance, determine.

(6) Staff of the mission is entitled to 25% of the cost of telephone calls made at their residences.

(7) A Head of Mission is entitled to free telephone service at his or her residence.

### **Hotel accommodation**

123. (1) A public officer may stay at a hotel at the expense of the Government for a period not exceeding 7 days prior to departure to a post abroad.

(2) A public officer may stay at a hotel, at the expense of the Government, for a period not exceeding 7 days if he or she is unable to move into suitable accommodation on arrival at his or her post abroad and during this period the officer shall not draw foreign service allowance.

(3) A public officer on recall may, on arrival in Lesotho, stay at a hotel for a period not exceeding 7 days.

(4) In the case where a public officer is obliged to live in a hotel or recognized boarding house longer than as stipulated in sub-regulations (1), (2) and (3), the officer shall seek the authority to do so from the Principal Secretary.

### **Travel and transport**

124. (1) When a public officer makes an official journey by an approved route the amount of the fares shall be paid from public funds.

(2) The approved route means the shortest route, by a mode of transport, class of travel approved for a particular journey between two places.

(3) In exceptional circumstances an officer may travel by a route other than the approved route and, subject to the approval of the Head of Mission or Principal Secretary, may claim expenses incurred, as though he or she used the approved route.

- (4) An official journey shall include-
- (a) a journey on a special mission, tour or visit undertaken with the general or special authority of the Principal Secretary;
  - (b) a journey made by a public officer, his or her spouse or his children to his or her post from Lesotho on appointment to a mission abroad, or to another mission on transfer;
  - (c) a journey from a mission to Lesotho on duty;
  - (d) a return journey after completion of an approved tour;
  - (e) a journey in relation to final termination of service, resignation or dismissal.

(5) The mode of travel shall be by air, but an officer may with the approval of the Principal Secretary, travel by other means, if -

- (a) it is at no extra cost to the Government; and
- (b) the travelling time is in excess of the normal air travel time, it shall be counted against the officer's leave entitlement.

(6) A Head of Mission shall be entitled to business class air travel when travelling on official duty and all other public officers shall be required to travel economy class.

(7) A public officer's spouse and children shall be entitled to the same class of travel as the officer himself or herself except that the children of a public officer travelling unaccompanied shall invariably be required to travel economy class irrespective of the class of travel to which the officer himself or herself is entitled.

(8) A public officer's spouse or children may, with the approval of the Principal Secretary, follow or precede the officer in arriving at or departing from the country in which that officer is serving.

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(9) A public officer travelling on official business other than an officer travelling for purposes of appointment, transfer or retirement shall not be entitled to be accompanied, at public expense, by his or her spouse except as follows -

- (a) where duty demands and with prior approval of the Principal Secretary, a Head of Mission may be accompanied by his or her spouse on journeys within the area of accreditation once in a period of 12 months;
- (b) if it is in the interest of representational efficiency, the Head of Mission may authorise an officer to be accompanied by his or her spouse on an official journey within the area of accreditation.

### **Medical treatment**

125. (1) The staff of the mission, their spouses, children and the domestic servant of the Head of Mission shall be covered by medical insurance paid out of the public funds, but where such medical insurance is not available the cost of such medical treatment shall be paid from public funds where -

- (a) the treatment was given by a qualified medical practitioner;
- (b) the Head of Mission has satisfied himself that the treatment given was essential.

(2) Children who are over the age of 18 years and residing with the public officer and are dependant on the public officer for their livelihood shall be covered by the medical insurance.

(3) Medical treatment includes consultation with a medical practitioner, hospital treatment, dental operations, normal denture, basic spectacles, medicine, drugs, prescribed medicine and medical appliances.

(4) Members of the staff of the mission shall also be reimbursed for the cost of actual travel expenses, but not subsistence expenses for journeys made in connection with the medical treatment.

## Part G - Tour of duty

### **Tour of duty**

126. (1) A tour of duty at a mission shall normally be of 3 years duration and may be extended for a further period not exceeding 3 years.

(2) An officer may be transferred or recalled before the expiry of his or her tour of duty.

(3) Notwithstanding sub regulation (1), a tour may be extended as the exigencies of service demand.

(4) A tour shall commence from the date an officer arrives at his or her mission and shall end 3 years later or as stipulated in his or her letter of recall to Lesotho.

### **Report to host country on recall or transfer**

127. (1) At the end of tour, on recall or transfer of a public officer, the mission or consular post shall report the departure of such officer to the host country and request for the cancellation of diplomatic visas or residents permits of the officer, his or her family and domestic workers.

(2) If the public officer, members of his or her family or domestic workers decide not to return to Lesotho for personal reasons, the Mission or consular post shall -

(a) announce the recall of such public officer and request cancellation of diplomatic visas and residence permits of the public officer and members of his or her family and domestic workers; and

(b) obtain and send back to Lesotho, the diplomatic passports issued to the officer and spouse.

(3) Once in Lesotho, the public officer shall ensure that his or her diplomatic passport and those of members of his or her family, are handed over to the Consular division of the Ministry unless such officer continues to qualify for diplomatic passport in accordance with the Lesotho Passport and Travel

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Documents Act, 1998<sup>4</sup>

## Part H – Leave

### Foreign service leave

128. (1) A public officer serving abroad is entitled to leave at the rate of 4 days per month of residential service abroad.

(2) A public officer may apply, in writing, for foreign service leave and such application shall be addressed to the Head of Mission.

(3) No fare or travelling allowance shall be payable to an officer for the purpose of travel during foreign service leave.

(4) No public officer may visit or spend foreign service leave outside the country where he or she is serving without prior permission from the Principal Secretary.

(5) A public officer serving abroad may take his or her leave with his or her family once during tour of duty in Lesotho, at Government expense.

(6) Leave not utilized in the current leave year shall not be carried forward to the next year, except with authority by the Principal Secretary.

(7) Leave authorized to be carried forward shall not be in excess of a quarter of the officer's entitlement and shall be utilized in the next leave year, failing which it shall be forfeited.

### Sick leave

129. (1) A public officer is entitled to sick leave for up to 12 days a year on medical grounds and on production of a medical certificate issued by a registered medical practitioner.

(2) A Head of Mission shall accept sick leave for a public officer on written recommendation of a qualified medical practitioner.

(3) Where the sick leave exceeds 12 days, the Principal Secretary shall be informed.

(4) Entitlement of sick leave shall not be carried forward from one year to another.

### **Passage and leave on compassionate grounds**

130. Where a public officer travels on compassionate grounds the following conditions shall apply-

- (a) for purposes of a burial -
  - (i) married officers and their spouses and children may be granted a return passage in case of a death of a spouse, a child, parent, grand parent, brother, sister or such other next-of-kin of the officer as may be approved by the Principal Secretary after consultation with the Minister;
  - (ii) single officers and their children may be granted a return passage in case of a death of a child, parent, grand parent, brother, sister or such other next-of-kin as may be approved by the Principal Secretary after consultation with the Minister;
- (b) for purposes of life-threatening illness-
  - (i) in the case of married officers, a return passage may be granted to one person subject to the approval of the Principal Secretary, in the event of a life-threatening or serious illness of the spouse, a child, a parent of either spouse or such other next-of-kin of the officer as may be approved by the Principal Secretary after consultation with the Minister;
  - (ii) in the case of single officers, a return passage may be granted to the officer and one child subject to the approval of the Principal Secretary, in the event of life threatening or serious of illness of the parents of the officer, a child, or such other next-of-kin of the officer as may be approved by the Principal Secretary after consultation with the Minister;

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- (c) subject to the provisions of paragraph (a) and (b), an officer may be granted leave on compassionate grounds for a period not exceeding 14 days.

### **Passage and leave for domestic workers**

131. (1) A Head of Mission shall be granted a free economy class passage by the shortest and most direct route for a domestic worker in each direction between Lesotho and the post once in each tour of service and on transfer from one post to another in the course of a tour.

(2) A Head of Mission's domestic worker shall be entitled to free passage to and from Lesotho in the case of death of his or her parent, spouse, or child.

(3) A Head of Mission's domestic worker is entitled to free passage to and from Lesotho on home leave at the same time as and when the Head of Mission takes such a leave or at a time convenient to the Head of Mission.

### **Part I – Other Terms and Conditions**

#### **Discipline**

132. (1) The provisions of the Act and regulations relating to the public service and any such law and regulations in force with regard to the reporting and investigation of breaches of discipline apply to the foreign service.

(2) The powers of suspension and the power to order an investigation of an alleged breach of discipline by a member of the foreign service shall be exercised in accordance with the provisions of the Act.

(3) No officer may, at any time, engage in any activity which would in any way impair his or her effectiveness as a member of the foreign service or bring the service into disrepute.

(4) An officer commits a breach of discipline if he or she or a member of his or her family accepts a gift or presentation whether in the form of money or otherwise from any person in recognition or anticipation of services rendered or to be rendered by virtue of his or her official position.

(5) Sub-regulation (4) does not apply to small personal gifts which may be exchanged between colleagues and friends.

(6) This regulation is in addition to, and not in derogation from, the provisions of the Act which prohibit public officers from giving or receiving valuable presents.

### **Insolvency**

133. (1) A public officer who becomes bankrupt or insolvent or whose financial affairs are seriously embarrassing shall report that fact to the Principal Secretary through the Head of Mission at which he or she is serving.

(2) Failure to report the matter shall be regarded as a breach of discipline.

### **Marriage and divorce**

134. (1) A public officer who proposes to marry shall notify the Principal Secretary of his or her intention to do so at least 3 months before the date of his or her marriage and if the Principal Secretary considers that to do so will not be in the interest of the national security of Lesotho, the officer may be recalled or be advised to resign.

(2) An officer who becomes involved in a matrimonial suit which may, in the opinion of the Minister responsible for foreign affairs, bring discredit upon him or her or the Service may be called upon to resign, or, be recalled to Lesotho.

(3) An officer who becomes involved in such a suit shall notify the Principal Secretary of the facts of the case at the commencement of such a suit.

### **Dress and foreign decorations**

135. (1) On formal occasions, officers and their spouses shall wear either the appropriate formal clothes worn in the country where they are serving or the traditional dress of Lesotho, like a blanket and a 'Molianyoe' hat.

(2) The choice between a blanket and a "Molianyoe" hat shall be left to the discretion of an officer, but on occasions where officers accompany

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a Head of Mission, the Head of Mission may decide that either that one or the other type of dress shall be worn by all concerned.

(3) Officers and their spouses may not, without a special and prior permission of the Minister, accept or wear foreign medals or decorations.

## CHAPTER IX – MISCELLANEOUS

### **Legal proceedings against officers**

136. (1) In civil and criminal cases, if an officer knows or is informed that legal proceedings are to be taken against him or her, he or she is to inform the Head of Department forthwith.

(2) If it appears to the Head of Department that the proceedings relate to an act or omission of the officer in the course of his or her duty, the Head of Department shall seek the advice of the Attorney General on that question and on the question of the State's responsibility on the matter.

(3) The State is not responsible for the fees of a legal practitioner retained privately by an officer.

### **Health and safety**

137. (1) The Head of Department shall establish and maintain a safe and healthy work environment for public officers in his or her ministry, department or agency and the public officer shall not engage in an activity that threatens the safety of other public officers.

(2) The Head of Department shall provide a first aid kit which shall be accessible to all public officers at all times during working hours.

### **Compensation for occupational injuries**

138. (1) A public officer shall be compensated in respect of personal injury sustained while on duty, or occupational diseases contracted in the course of his or her employment or death resulting from such injuries or diseases if it is established that it is not caused by negligence on the officer's part.

(2) The extent of injury sustained by the officer shall be determined by the Medical Board.

(3) Compensation shall be awarded in accordance with the provisions of the Workmen's Compensation Act 1977<sup>5</sup> or Public Officers' Defined Contribution Pensions Fund Act.

### **Safe custody of government property**

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

### **Private employment and private interests**

140. (1) Except with the approval of the Minister, a public officer shall not undertake remunerative or unpaid work outside his or her official duties or use office equipment for such work.

(2) Nothing in this regulation shall be construed as preventing a public officer from becoming a member or shareholder only, of a company or society of persons registered under any law.

### **Disclosure of interests by public officers**

141. (1) For the purposes of this regulation the following kinds of financial interests are registerable interests –

- (a) shares and other financial interests in private or public companies and other corporate entities recognized by law;
- (b) directorships and partnerships;
- (c) remunerative work outside the public service;
- (d) consultancies and retainerships;
- (e) sponsorships;

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- (f) gifts and hospitality from a source other than a family member; and
  - (g) ownership and other interests in land and property, whether inside or outside Lesotho.

(2) All public officers shall, not later than 30 April of each year, disclose to the Head of Department, on such form as the Minister may determine, particulars of all his or her registerable interests in respect of the period from 1 April of the previous year to 31 March of the year in question.

(3) An officer who assumes duty after 1 April in a year shall make such disclosure within 30 days after assumption of duty.

(4) The Head of Department shall submit, to the Directorate of Corruption and Economic Offences, a copy of the form not later than 31 May of the year in question or not later than 30 days after it has been submitted.

(5) An officer who fails to disclose an interest in terms of this regulation or willfully provides incorrect or misleading information commits a misconduct and if found guilty is liable to a disciplinary action or a criminal charge or both.

### **Discipline in the public service**

142. (1) For the purposes of sections 6, 7 and 8 of the Disciplinary Code-

- (a) a verbal warning may be issued for a first minor offence and shall be preceded by counselling and constructive action taken to correct the conduct or behaviour of the officer;
- (b) a written warning may be issued if the supervisor is still not satisfied with the officer's behaviour or conduct after a verbal warning has been issued, or if the officer commits another misconduct;
- (c) a final written warning may be issued if previous warnings have had no effect or if the misconduct is of a seri-

ous nature;

- (d) a suspension on half salary or without salary may be considered as an alternative to dismissal, if there is sufficient evidence to justify dismissal of the officer;
- (e) a dismissal may be considered appropriate under the following circumstances –
  - (i) where other forms of discipline have been applied to the officer, but the officer does not correct his or her behaviour;
  - (ii) where the officer has already received a final warning and then commits a similar offence and no other disciplinary sanction appears to be appropriate;
  - (iii) where the misconduct is of a serious nature.

(2) The Head of Department may, subject to the procedures set out in the Disciplinary Code, suspend a public officer found guilty of a misconduct from office on half salary or without salary, and benefits for a period not exceeding three months or dismiss the officer from employment, as he or she may consider appropriate.

(3) Where the Head of Department is a complainant, in a disciplinary inquiry or respondent in a grievance hearing, the Government Secretary shall chair the proceedings. If the Government Secretary is unable to chair the proceedings due to the exigencies of his or her work, he or she shall arrange for a Head of Department from another ministry, department or agency to chair the inquiry or hearing.

### **Active participation in politics**

143. (1) A public officer shall not be an active member of a political party, speak in public of any political party or matter, or take an active part in the support of any candidate in an election, and do anything by word or deed which is calculated to further political interest of any party.

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(2) The following acts are, among others, in relation to a public officer, acts which constitute active participation in politics -

- (a) canvassing any person in support of or otherwise actively assisting an organization or movement of a political character;
- (b) displaying or wearing symbols, rosettes, posters, placards or like articles having a political significance;
- (c) chanting or singing at a political rally or meeting;
- (d) publishing views of a political character or causing them to be in speeches, broadcasts, letters to the press, articles, leaflets, posters, placards, books or otherwise; and
- (e) any other act or conduct whatsoever of a public officer of which the public may reasonably be induced to associate or identify the officer with an organization or movement of a political character.

(3) A public officer who wishes to stand for general elections to the National Assembly or local government elections as a candidate (including a candidate on the party list) shall resign or retire from the public service by giving a written notice of at least a month prior to the nomination day for general elections or local government elections as appointed in accordance with the National Assembly General Elections Act 1992<sup>6</sup> or Local Government Election Act 1998<sup>7</sup> respectively.

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

(5) Notwithstanding sub-regulation (1), a public officer who, on the coming into operation of these Regulations, is on the proportional list of a political party for the purposes of being nominated to the National Assembly shall, within three months of their coming into operation, resign from the public service or withdraw from that list.

CHAPTER X – REPEAL

**Repeal**

144. The Public Service Regulations 1969<sup>8</sup> are repealed.

**DATED: 26TH MAY, 2008**

**SEMANO HENRY SEKATLE  
MINISTER OF PUBLIC SERVICE**

**NOTE**

1. Act No. 1 of 2005 as amended by Act No. 3 of 2007
2. Proclamation No. 62 of 1952
3. Act No. 13 of 1970
4. Act No. 15 of 1998
5. Act No. 13 of 1977
6. Act No. 10 of 1992
7. Act No. 9 of 1998
8. L.N. No. 16 of 1969