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CONTENTS

No.

Page

ACT

1      Public Service Act 2005 ..... 15

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1950

1950

1950

1950

1950

1950

1950

1950

1950

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ACT NO. 1 OF 2005

**PUBLIC SERVICE ACT 2005**

ARRANGEMENT OF SECTIONS

**Section**

**PART I – PRELIMINARY**

1. Short title and commencement
2. Object of the Act
3. Application
4. Interpretation
5. Act is ancillary to the Constitution
6. Powers of the Commission
7. Appointment to the public service
8. Entry and advancement to be based on merit
9. Secondment to private and parastatal organisation
10. Powers of the Minister
11. Appointment and removal from office of the Government and Principal Secretary
12. Functions of the Government Secretary
13. Functions of the Principal Secretary

**PART II – CONDITIONS OF EMPLOYMENT AND CONDUCT OF PUBLIC OFFICERS**

14. Conditions of employment
15. Codes of practice

**PART III – SETTLEMENT OF DISPUTES**

16. Legal representation
17. Conciliation Board
18. Arbitration
19. Strike
20. Public Service Tribunal

**PART IV – PUBLIC STAFF ASSOCIATION**

- 21. Freedom of Association
- 22. Public Officers' Association
- 23. Public Service Joint Advisory Council
- 24. Rules of the Council
- 25. Functions of the Council

**PART V – RETIREMENT OF PUBLIC OFFICERS**

- 26. Retirement

**PART VI – MISCELLANEOUS**

- 27. Staff of the Commission
- 28. Annual Report of the Commission
- 29. Regulations
- 30. Non-application of Labour Code
- 31. Repeals and savings

## ACT NO. 1 OF 2005

**PUBLIC SERVICE ACT 2005**

An Act to make provision in respect of the public service of Lesotho and for related matters.

Enacted by the Parliament of Lesotho

**PART I – PRELIMINARY****Short title and commencement**

1. This Act may be cited as the Public Service Act 2005 and shall come into operation on such date or dates as the Minister may, by notice published in the Gazette, determine.

**Object of the Act**

2. The object of this Act is to develop and maintain a stable, efficient and effectively managed public service.

**Application**

3. This Act does not apply to the offices specified in section 137(3) of the Constitution to the extent therein specified.

**Interpretation**

4. In this Act, unless the context otherwise requires -

“**agency**” means any organisation that is statutorily engaged in carrying out Government business;

“**bargaining unit**” means all public officers on Grade H and below;

“**collective bargaining**” means a process of negotiations entered into between a registered public officers’ association and the employer in respect of any matter of mutual interest, with the purpose of reaching a collective bargaining agreement;

**“commission”** means the Public Service Commission established by section 136 of the Constitution;

**“conciliation Board”** means a board established under section 17;

**“constitution”** means the Constitution of Lesotho;

**“council”** means the Public Service Joint Advisory Council established under section 23;

**“disciplinary action”** means a formal or informal action taken by management against a public officer who fails to conform with the rules and regulations governing public officers or has committed any other misconduct;

**“dispute of right”** means a dispute arising from a breach or contravention of law, contract of employment or collective bargaining agreement;

**“dispute of interest”** means a dispute over employment matters to which a public officer or employer does not have an established right;

**“employer”** means the Government of Lesotho represented by ministries, departments and agencies;

**“essential service”** means a service the interruption of which endangers the life, personal safety or health of the whole or any part of the population;

**“grievance”** means a feeling of dissatisfaction or injustice which a public officer encounters in the work place and is formally brought to the attention of the employer;

**“Head of Department”** means a public officer who is in charge of a department or an agency under his or her supervision or any other public officer designated as such by the Minister;

**“Minister”** means the Minister responsible for the public service;

**“prescribed”** means prescribed by the regulations;



**“proper authority”** means a person who or an authority which under this Act has power to direct a public officer in the performance of his or her duties;

**“public officer”** has the meaning assigned to it in the Constitution;

**“public Officers’ Association”** means an association that may be formed by public officers under section 22;

**“public service”** has the meaning assigned to it in the Constitution;

**“retrenchment”** means the termination of employment arising from a redundancy caused by the re-organisation of a ministry or department or reduction of an establishment for economic or technological and operational reasons;

**“strike”** means the withdrawal of labour by public officers in furtherance of a workplace dispute;

**“Tribunal”** means the Public Service Tribunal established under section 20.

### **Act is ancillary to the Constitution**

5. The provisions of this Act are ancillary to those provision of the Constitution that relate to the public service, public offices and public officers;

### **Powers of the Commission**

6. Subject to the provisions of the Constitution, the power to appoint persons to hold or act in offices in the public service (including power to confirm appointments ) and the power to terminate appointments of such persons, save the power to discipline and terminate appointments of such officers for disciplinary reasons, is vested in the Commission.

### **Appointment to the public service**

7. (1) Appointment to the public service shall be on -

- (a) permanent and pensionable terms;
- (b) contract terms;
- (c) temporary terms;
- (d) casual labour terms;

(2) Any person who is appointed to the public service after the coming into operation of this Act shall be appointed under any of the appointments set out in sub-section (1), and the conditions of employment made under this Act.

### **Entry and advancement to be based on merit**

8. (1) Entry into and advancement within the public service shall be based on merit, namely: ability, qualifications, knowledge, skill and aptitude after a fair and open competition which assures that all citizens of Lesotho receive equal opportunity.

(2) In selecting candidates for appointment to a post in the public service, the Commission shall have regard primarily to the need for promoting efficiency within the public service.

(3) The Commission shall have the power to reject short listed candidates who, in the view of the Commission, are not qualified for the job.

### **Secondment to private or parastatal organisation**

9. A public officer may, with his or her consent, be seconded to a private or parastatal organisation for a period not exceeding 3 years.

### **Powers of the Minister**

10. (1) Subject to the provisions of the Constitution and of this Act or any other law relating to the public service, the Minister may (subject to the prior concurrence of the Minister responsible for Finance in respect of any matter involving the expenditure of public funds) do what in his opinion, is necessary or expedient for giving effect to the objects of this Act or for enabling effect to be given thereto.



(2) Without limiting the generality of sub-section (1), the Minister may make provision for all or any of the following matters -

- (a) policy on the establishment or abolition of departments, sub-departments or offices, and transfer of functions and public officers from one department to another;
- (b) employment policy and any other policy that relates to human resources, including but not limited to promotions, training and development, public officers' relations, retirements, control and organisation of ministries and departments;
- (c) policy on salary administration, remuneration and benefits, job evaluation and job grading;
- (d) policy for effecting economies and promoting responsiveness and provision of quality services in the public service;
- (e) policy for public service transformation and reforms;
- (f) policy on norms, standards and matters relating to conditions of employment and general welfare of public officers;
- (g) policy determination with regard to code of conduct, performance management, discipline and other career incidents of the public officers including any other matter which relates to the promotion of harmonious relationships between the employer, officers, officers' representatives and management within the public service.

### **Appointment and removal from office of the Government Secretary and Principal Secretary**

11. (1) Pursuant to section 139(1) of the Constitution, the power to appoint a person to hold or act in the offices of Government Secretary or

Principal Secretary shall vest in the Prime Minister, acting after consultation with the Commission.

(2) The Government Secretary and a Principal Secretary shall hold office for a period of three years.

(3) Sub-section (2) shall not apply to a contract of the Government Secretary and a Principal Secretary which already exists at the coming into operation of this Act.

(4) The power to exercise disciplinary control over a Principal Secretary shall vest in the Government Secretary and, the power to exercise disciplinary control over the Government Secretary shall vest in the Prime Minister.

(5) The disciplinary power referred to in sub-section (4) shall be exercised in accordance with the provisions of the Disciplinary Code and where dismissal of a Principal Secretary is contemplated, the Government Secretary shall recommend such dismissal to the Prime Minister.

(6) Notwithstanding sub-sections (4) and (5), the power to remove the Government Secretary and a Principal Secretary from office shall vest in the Prime Minister acting after consultation with the Commission.

### **Functions of the Government Secretary**

12. In addition to the functions vested in the Government Secretary under section 97 of the Constitution, the Government Secretary shall -

- (a) co-ordinate the activities of the Principal Secretaries and transmit communication from the Principal Secretaries to Cabinet;
- (b) be responsible for conveying the policies and discussions of Government to the appropriate person or authority and for ensuring that those policies and discussions are properly carried out by that person or authority;
- (c) enter into performance agreements with the Principal

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Secretaries, supervise and monitor their performance;  
and

- (d) have overall responsibility over all public officers.

### **Functions of the Principal Secretary**

13. (1) In addition to the functions vested in the Principal Secretary under section 96 of the Constitution, the Principal Secretary is the chief accounting and overall supervising officer of a Ministry under his or her supervision.

- (2) Without limiting the generality of sub-section (1), the Principal Secretary is responsible for -
- (a) setting directions, objectives and appropriate guide line and strategies for the Ministry under the Principal Secretary's supervision, in accordance with the performance agreement entered into with the Government Secretary;
  - (b) annually setting and agreeing with officers under the Principal Secretary's supervision about their individual workplans and to supervise and monitor their performance;
  - (c) assisting in the initiation, formulation and implementation of the policies of the Ministry or Department under the Principal Secretary's supervision;
  - (d) ensuring that the services which the Ministry or Department under the Principal Secretary's supervision provides to the public and to other areas of Government are delivered in accordance with the principles and object of this Act;
  - (e) transferring and rotating public officers from one department to another within, and reorganising the Ministry under the Principal Secretary's supervision.



(3) The Principal Secretary shall exercise the powers under this section subject to the general direction and control of the Minister responsible for the Ministry concerned.

## **PART II - CONDITIONS OF EMPLOYMENT AND CONDUCT OF PUBLIC OFFICERS**

### **Conditions of employment**

14. (1) The conditions of employment for public officers shall be as set out by the Minister.

(2) The Minister may, from time to time revise or amend the conditions of employment, after consultation with such persons or bodies which are in the Minister's opinion representative of the interests concerned.

### **Codes of practice**

15. (1) The Minister may, from time to time and after consultation with such persons or bodies which are in the Minister's opinion representative of the interests concerned -

- (a) prepare and issue, codes of practice for the purpose of providing practical guidance in respect of this Act including the following codes -
  - (i) Code of Conduct which shall be primarily a guide to public officers in the conduct of their relationships and dealings with their employers and the general public;
  - (ii) Grievance Code which shall prescribe the procedure to be followed in handling public officer's grievances;
  - (iii) Disciplinary Code which shall prescribe the procedure to be followed in instituting disciplinary action against a public officer who has committed a misconduct;

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### NOTICE OF CHANGE OF SURNAME

Notice is hereby given for general information that I THABANG ELLIOT MOREMA intend changing my present surname of MOREMA to that of MOKETE in the register of the Registrar-General.

The reason of such a change is that I wrongly assumed MOREMA as my surname whereas my right surname is MOKETE.

All persons having objection to this change of surname are advised to lodge them in writing to the Ministry of Local Government, P.O. Box 686, Maseru 100.

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### NOTICE OF CHANGE OF SURNAME

Notice is hereby given for general information that I LERATO LEKHOTLA intend changing my present surname of LEKHOTLA to that of MOKHITLI in the register of the Registrar-General.

The reason of such a change is that I wrongly assumed LEKHOTLA as my surname whereas my right surname is MOKHITLI.

All persons having objection to this change of surname are advised to lodge them in writing to the Ministry of Local Government, P.O. Box 686, Maseru 100.

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### NOTICE OF CHANGE OF SURNAME

Notice is hereby given for general information that I NEO SEBIBINYANA intend changing my present surname of SEBIBINYANA to that of MOKHAJOA in the register of the Registrar-General.

The reason of such a change is that I wrongly assumed SEBIBINYANA as my surname whereas my right surname is MOKHAJOA.

All persons having objection to this change of surname are advised to lodge them in writing to the Ministry of Local Government, P.O. Box 686, Maseru 100.



NOTICE OF CHANGE OF NAME

I hereby give notice that I have changed my name from THABANG ELIJAH to THABANG ELIJAH THABANG ELIJAH. My present address is P.O. Box 268, Maseru.

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