



LESOTHO

Government Gazette

Vol. 67

Friday – 8th July, 2022

No. 50

CONTENTS

No.	Page
-----	------

ACT

10	Referendum Act, 2022 923
----	--------------------------------

GOVERNMENT NOTICE

41	Statement of Objects and Reasons of 951 Referendum Act, 2022
----	---

Published by the Authority of His Majesty the King
Price: M38.00

ACT NO. 10 OF 2022

Referendum Act, 2022

ARRANGEMENT OF SECTIONS

Section

CHAPTER I - PRELIMINARY

1. Citation and commencement
2. Interpretation
3. Application of the Act

CHAPTER 2 - PROCLAMATION OF REFERENDUM

4. Commission to be responsible for referendum
5. Proclamation of referendum
6. Wording of referendum question
7. Language
8. Restrictions
9. Form of ballot paper

CHAPTER 3 - CONDUCT OF REFERENDUM

10. Application of National Assembly Electoral Act

CHAPTER 4 - APPOINTMENT OF REFERENDUM OFFICERS

11. Referendum officers

CHAPTER 5 - VOTING AT A REFERENDUM

12. Voting station
13. Right to vote
14. Voting procedure

CHAPTER 6 - REGISTRATION OF REFERENDUM COMMITTEES

15. Referendum committee

16. Application for registration
17. Restrictions on registration of referendum committee
18. Appointment of agents
19. Rights and duties of agents

CHAPTER 7 - CHIEF AGENTS AND AUDITORS

20. Recount at the voting station
21. Registry of chief agents
22. Appointment of chief agent and auditor
23. Appointment of new chief agent
24. Appointment of new auditor
25. Referendum officer ineligible
26. Return by chief agent
27. Auditor's report
28. Explanatory notes
29. Right to access

CHAPTER 8 - REFERENDUM EXPENSES AND CONTRIBUTIONS

30. Referendum contributions
31. Records
32. Limitation on referendum expenses
33. Bank accounts
34. Payment out of contributions
35. No contributions after return filed

CHAPTER 9 - RECOUNTS AND PUBLICATION OF RESULTS

36. Constituency referendum results
37. Publication of referendum results
38. Challenging the results of a referendum
39. Electors entitled to be present

CHAPTER 10 - GENERAL PROVISIONS

40. No person is required to state how he voted
41. Prohibition of incitement to public disorder at a referendum
42. Reference in offences provisions
43. Costs payable out of Consolidated Revenue Fund

44. Regulations

SCHEDULE 1

FORM 1 - KINGDOM OF LESOTHO - REFERENDUM ACT, 2016

FORM 2 - KINGDOM OF LESOTHO - REFERENDUM ACT, 2016

ACT NO. 10 OF 2022

Referendum Act, 2022

An Act to make provision for the conduct of a referendum and incidental matters.

Enacted by the Parliament of Lesotho.

CHAPTER 1 - PRELIMINARY

Citation and commencement

1. This Act may be cited as the Referendum Act, 2022 and shall come into operation on the date of its publication in the Gazette.

Interpretation

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

“Act” means the Referendum Act, 2022;

“agent” means a person duly appointed by a referendum committee for the purposes of this Act to represent the referendum committee;

“Attorney General” means a person appointed as such under the Constitution;

“chief agent” in respect of a registered referendum committee, means a person recorded in the register maintained by the Commission under section 21 as the person responsible for the affairs of the referendum committee;

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

“Constitution” means the Constitution of Lesotho 1993;

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

“corrupt practice” means a practice contemplated in the offences referred to in Part 2 of Chapter II of the National Assembly Electoral Act, 2011¹;

“Director” means the Director of Elections appointed under section 144 of the National Assembly Electoral Act, 2011 and includes any person who is acting in that capacity;

“election offence” means a corrupt practice, an illegal practice or any offence under the National Assembly Electoral Act, 2011;

“elector” means a person registered as an elector under Part 2 of Chapter 2 of the National Assembly Electoral Act, 2011 and in relation to a particular constituency, a person whose name appears in the elector’s register prepared for that constituency;

“ethnic groups” includes Baphuthi and Amaxhosa;

“illegal practice” means a practice that constitutes an offence under Part 3 of Chapter II of the National Assembly Electoral Act, 2011;

“Leader of Referendum Committee” means a person who leads a group of people registered with the Commission who during a referendum intends to support or oppose a referendum question;

“Minister” means the Minister responsible for justice and law;

“oppose” in respect of a referendum question, means to be in favor of voting “no” to the question;

“petition” means an application filed with the High Court challenging the results of a referendum;

“polling station manager” means a person who is responsible for the administration of the polling process during elections;

“referendum” means a process of referring an issue or question to electors for decision;

“referendum committee” means any group of persons registered with the Commission that intends to support or oppose the referendum ques-

tion during the referendum period;

“referendum officer” means a returning officer, voting station manager, voting station officer and any other person appointed by the Commission to perform referendum duties under this Act;

“referendum period” means the period beginning on the day on which the text of the referendum question is published and ending on the day a notice of the results of a referendum are published;

“referendum question” means a question directed to be put to electors by a notice published in a Gazette;

“support” in respect of a referendum question, means to be in favour of voting “yes” to the question;

“returning officer” means a person appointed by the Commission under section 12 for the purpose of conducting a referendum in a constituency;

“voting station” means a station established by the Director under section 155 of the National Assembly Electoral Act, 2011.

Application of the Act

3. This Act shall apply to the parts of the Constitution that mandate a referendum, any law or issue that, in the opinion of Parliament or citizens organization, may be subjected to the public opinion by way of a referendum, where -

- (a) the concerned citizen organisation has petitioned Parliament; and
- (b) upon the final voting with two thirds majority in support of the proposed referendum by both houses of Parliament.

CHAPTER 2 - PROCLAMATION OF REFERENDUM

Commission to be responsible for referendum

4. (1) The Commission is, in accordance with the provisions of the

Constitution and the National Assembly Electoral Act, 2011, responsible for -

- (a) organising, conducting and supervising the general conduct of a referendum; and
- (b) promoting and regulating voter education for a referendum by ensuring that its outreach programme includes ethnic groups.

(2) The Commission shall, as soon as possible after the publication of a proclamation under section 4, inform the public, by such means, as the Commission considers appropriate, of the referendum question and the manner in which the referendum will be conducted.

(3) Nothing in subsection (2) shall be construed as requiring or authorising the Commission to inform, or answer inquiries from the public with respect to any argument in support of or in opposition to any referendum question.

(4) In conducting a referendum under this Act, the Commission shall not be subject to the direction or control of any person or authority.

Proclamation of referendum

5. (1) Where any of the circumstances contemplated in section 3 prevail, the King may, by proclamation and acting in accordance with the advice of the Prime Minister, direct that the opinion of electors be obtained by putting the question to the electors.

(2) Parliament shall, for purposes of subsection (1), indicate the period within which the Prime Minister advises the King to hold a referendum.

(3) A proclamation for a referendum may direct that more than one question be put to electors.

(4) The proclamation referred to in subsection (1) shall -

- (a) be in accordance with Form I in the Schedule;
- (b) state a day and date on which a referendum is to be held;

and

- (c) lay out a timetable which specifies the following dates:
 - (i) suspension of registration of electors;
 - (ii) closure of registration of referendum committees;
 - (iii) commencement of campaigns; and
 - (iv) publication of referendum results.

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

- (a) copy of the Proclamation and time table for the election in a referendum;
- (b) the issue or question to be put to the electors at the referendum;
- (c) the name of a person appointed to be the returning officer for each constituency.

(6) A time table under subsection(5)(a) shall specify -

- (a) the date on which -
 - (i) registration of electors is suspended;
 - (ii) registration of referendum committees is to close;
 - (iii) campaigns are to commence and end;
 - (iv) referendum results are to be published; and
- (b) the name of a person appointed as referendum returning officer for each constituency.

(7) Where pursuant to section 85 of the Constitution a referendum is required for the purpose of obtaining the approval of the electors with respect to altering a provision of the Constitution, the Attorney General shall provide the wording of the referendum question.

Wording of referendum question

6. A referendum question shall be so worded that each elector may express an opinion on the question by making a cross or other mark after the word “yes” or “no” on the ballot paper.

Language

7. The Commission shall ensure that the text of a referendum question is available in both official or any languages that may be possibly used in Lesotho.

Restrictions

8. No proclamation may be issued when Parliament stands dissolved.

Form of ballot paper

9. (1) The Commission shall be responsible for the preparation of the ballot papers for a referendum.

(2) The Commission shall, for the purpose of a referendum, modify the form of the ballot paper used at a general election in such manner as, in the Commission’s opinion, will best achieve that purpose.

(3) In the event where there is more than one subject matter, each ballot shall deal with one subject matter.

CHAPTER 3 - CONDUCT OF REFERENDUM

Application of National Assembly Electoral Act

10. (1) Pursuant to section 4 and without prejudice to subsection (3) or any other provision of this Act, the Commission may, where relevant, apply the National Assembly Electoral Act, 2011 and its regulations to this Act.

(2) In the event of a conflict between this Act and a provision of the National Assembly Electoral Act, 2011, this Act shall prevail.

(3) The Commission may -

(a) assign such a symbol for each answer to a question to be determined during a referendum as it may be necessary, and the symbol shall -

(i) not resemble that of a political party; and

(ii) be published independently by notice in the Gazette;

(b) make special provisions for Basotho who are -

(i) performing essential duties;

(ii) admitted in hospitals,

on a voting day to cast a vote in a referendum.

(4) The closing date of the registration of referendum committees shall not be less than 30 days or more than 60 days before the election day.

(5) An individual who, or an association, organization, or institution which intends to act as referendum observer, shall apply to the Commission for accreditation.

(6) The Commission shall issue guidelines for referendum observers, consistent with internationally accepted standards for a free and fair referendum, which shall be binding on referendum observers upon accreditation by the Commission.

(7) The Director shall publish the electors' register that is going to be used for a referendum.

(8) Each accredited referendum observer shall submit to the Commission, a written report of their individual or group observation not later than six months after the date of announcement of the referendum results in respect

of the referendum observed.

(9) An incapacitated elector may be assisted upon request by the voting station manager or any person of his choice.

CHAPTER 4 - APPOINTMENT OF REFERENDUM OFFICERS

Referendum officers

11. (1) In this section, “referendum officer” means the Director and a person appointed under this section to be a -

- (a) district referendum officer;
- (b) referendum returning officer;
- (c) voting station manager;
- (d) voting station officer; and
- (e) referendum officer under subsection (2).

(2) The Commission shall have the power to appoint such referendum officers as it may consider necessary for the purpose of a referendum and subject to the provisions of this section, a referendum officer shall exercise such functions relating to the referendum as may be prescribed by the Commission.

(3) A referendum officer may, with the approval of the Commission, appoint any other person to assist him in the exercise of his functions, and may, at any time, revoke such appointment.

(4) A referendum officer shall, before exercising any of the functions of his office, take and subscribe to such oath as the Commission may prescribe.

(5) The Commission may, at any time, revoke the appointment of a referendum officer.

CHAPTER 5 - VOTING AT A REFERENDUM

Voting station

12. For the purposes of a referendum, each constituency for the time being established by law for the purpose of electing members of the National Assembly shall be divided into voting stations.

Right to vote

13. A person who at the time of a referendum is registered as an elector shall be entitled to vote at a referendum.

Voting procedure

14. (1) Voting at the referendum shall be by secret ballot and the votes shall consist of a ballot paper which shall contain a different and distinct symbol for each answer to the question to be voted on.

(2) A person shall vote in an area in respect of which the person is registered as an elector.

(3) A person shall, where there are more than one question, cast one vote at the referendum in respect of each question.

(4) After the close of the voting station, the voting station manager shall immediately proceed to count the ballot papers of that station at the voting station and record the votes cast in YES, NO and invalid votes on the question or issue to be decided at the referendum.

(5) Subject to the provisions of this Act, the Commission may authorise a person whom the Commission considers fit, to be present at the voting station throughout the period of voting, counting and tallying of the votes and announcing the results.

(6) The voting station manager shall sign and retain a copy of a declaration of results stating -

(a) the name and number of the voting station; and

- (b) the number of votes cast in YES, NO and invalid votes on the question or issue to be decided at the referendum.

(7) The voting station manager shall then announce and affix the results of the voting station before transmitting them to the returning officer.

CHAPTER 6 - REGISTRATION OF REFERENDUM COMMITTEES

Referendum committee

15. (1) Persons intending to support or oppose a referendum question may form one national committee and a committee in each constituency, which committee shall be known as a referendum committee.

(2) The referendum committee shall subscribe to and abide by the Electoral Code of Conduct provided for under section 122 and set out in Schedule 2 of the National Assembly Electoral Act, 2011 in the manner the Commission shall, in writing, direct.

Application for registration

16. (1) A referendum committee may apply for registration for the purposes of a referendum by filing an application with the Commission, at least ninety days before the referendum date.

(2) An application under subsection (1) shall be accompanied by information and statements containing the list of ten electors indicating their voting identification numbers and duly signed at the constituency level showing that the applicant adequately represents those campaigning for or against the referendum question.

(3) The leader of a referendum committee shall sign an application for registration and which shall -

- (a) set out -
 - (i) the full name of committee;
 - (ii) the full name, address and telephone number of the leader of the committee.

- (iii) the address and telephone number of the office of the committee where its books and records are kept and of the office to which communications may be addressed;
 - (iv) the name, address and telephone number and title of each officer of the committee;
 - (v) the name, address and telephone number of the auditor of the committee; and
 - (vi) the name, address and telephone number of the chief agent of the committee;
- (b) indicate the constituencies in which the committee intends to support or oppose the referendum question; and
 - (c) be accompanied by two statements, one signed by the person referred to in subparagraph (a) (v) and the other signed by the person referred to in subparagraph (a)(vi), to the effect that the signer has accepted the appointment as auditor or chief agent, as the case may be of the committee.

(4) The Director shall, immediately upon receipt of an application for registration of a referendum committee, examine the application and determine whether the committee can be registered and if the committee -

- (a) can be registered, register it and inform the person who signed the application; or
- (b) cannot be registered, inform the person who signed the application that the committee cannot be registered and state the reasons why it cannot be registered.

(5) For purposes of subsection (4)(b), a referendum committee may if not satisfied with the decision of the Director, appeal such decision to the Commission, and if the Commission upholds the decision of the Director, the referendum committee may appeal the decision of the Commission to the High Court for review.

(6) Where a referendum committee is registered and any information given by the committee ceases to be applicable or accurate, the referendum committee shall immediately send a report, in writing, signed by the leader or chief agent of the committee, to the Director setting out the information necessary to bring the information up to date.

(7) The registration of a referendum committee for the purposes of a referendum is valid only for that referendum.

Restrictions on registration of a referendum committee

17. (1) A referendum committee shall not be registered if -
- (a) the application for registration does not comply with section 16;
 - (b) the name or symbol of the committee is the name or symbol of a political party or so resembles such a name or symbol that the committee is likely to be confused with the party; or
 - (c) the name of the committee so resembles the name of a previously registered referendum committee that the committee is likely to be confused with that previously registered referendum committee.

(2) Applications for registration shall be examined in the order in which the Director receives them.

Appointment of agents

18. (1) The chief agents of all the registered referendum committees in a constituency may appoint not more than two agents to be present when voting is taking place at each voting station.

(2) An agent appointed under subsection (1) has, for the purposes of proceedings at the voting station, all the rights and obligations of a candidate's agent specified under the National Assembly Electoral Act, 2011 for that voting station by the Commission.

(3) A referendum agent appointed under subsection (1) shall be paid an allowance to be determined by the Commission.

(4) A leader of a referendum committee at the constituency and national level and a Chief Agent, shall be given access to a polling station and Constituency office for observing voting and counting of the results process.

(6) Every person appointed pursuant to this section shall be appointed in writing and shall take such oath of office as the Commission may specify.

Rights and duties of agents

19. (1) An agent appointed under section 18 shall when present, be entitled to -

- (a) witness the opening and closing procedures and processes of a voting station;
- (b) examine the serial numbers of the ballot boxes before the commencement of the voting and after the close of voting;
- (c) examine electors' registers;
- (d) verify whether a person who has applied for a ballot paper to vote is qualified to vote at a voting station;
- (e) be furnished with the names of the election officials at a voting station;
- (f) put a security seal on the ballot box if it is available;
- (g) object, to the presence of any person, other than a person lawfully present at the voting station;
- (h) take note of all the activities taking place in a voting station including the conduct of the voting process;
- (i) object any irregularity by filling a signed query with the

referendum officer but he shall not obstruct the process;
and

- (j) perform any other function or carry out any other responsibility conferred on an agent by this Act.
- (2) An agent shall comply with the Act and in particular shall -
- (a) submit to the authority of the voting station manager at a voting station and the returning officer at the constituency;
 - (b) comply to the lawful orders given by the referendum officer;
 - (c) not to communicate with any voter in the voting station except as authorised by the voting station manager; and
 - (d) not interfere with the voting or counting process in any manner which is not authorised by this Act.

Recount at the voting station

20. (1) An agent of a registered referendum committee may, upon completion of counting of votes, require the voting station manager to have the votes rechecked and recounted.

(2) Notwithstanding subsection (1), the voting station manager may on his own initiative have the votes recounted but a recount of votes shall not take place more than twice if -

- (a) there is an equality of votes;
- (b) there is reasonable proof that the counting was not properly done; and
- (c) the recounting of votes is done with the approval of the Director or an order of Court of Law.

CHAPTER 7 - CHIEF AGENTS AND AUDITORS

Registry of chief agents

21. The Director shall maintain a registry of chief agents of registered referendum committees in which shall be recorded the name, address and telephone number of the chief agent of each such committee.

Appointment of chief agent and auditor

22. A referendum committee that intends to apply for registration shall, before applying, appoint a chief agent and an auditor;

Appointment of new chief agent

23. Where the position of chief agent of a registered referendum committee or of a referendum committee that has applied for registration becomes vacant or the chief agent is unable to perform the duties of his office, the committee shall forthwith appoint a new chief agent and file with the Director a notice, in writing, signed by the leader of the committee, of the name, address and telephone number of the new chief agent and a statement, signed by the new chief agent, that the signer has accepted the appointment as chief agent of the committee.

Appointment of new auditor

24. Where the position of auditor of a registered referendum committee or of a referendum committee that has applied for registration becomes vacant or the auditor is unable to perform the duties of his office, the committee shall forthwith appoint a new auditor and file with the Director a notice in writing, signed by the leader of the committee, of the name, address and telephone number of the new auditor and a statement, signed by the new auditor, that the signer has accepted the appointment as auditor of the committee.

Referendum officer ineligible

25. A referendum officer shall not act as a chief agent or an auditor of any registered referendum committee.

Return by chief agent

26. (1) The chief agent of each registered committee shall, within four months after the voting day at a referendum, file with the Director a true return, signed by the chief agent, in a prescribed form and containing detailed statements of -

- (a) all expenses incurred by the committee in relation to the referendum;
- (b) the amount of contributions received during and after the referendum period by the committee from each of the following classes of contributors -
 - (i) individuals;
 - (ii) corporations;
 - (iii) trade unions;
 - (iv) political parties;
 - (v) governments; and
 - (vi) other groups.

(2) Each return shall include the auditor's report and the original of all bills, vouchers and receipts related to the expenses incurred or contributions received and shall be accompanied by an affidavit or statutory declaration made by the chief agent in prescribed form.

(3) The referendum committee shall declare to the Director receipt of an aggregate contributions over M500,000.00 within five days of receipt, and the Director shall publish that information through print, broadcasting or digital media.

Auditor's report

27. The auditor of a registered referendum committee shall make a report of the audit to the chief agent of the committee on the referendum finances return

of the committee and shall make such examinations as will enable the auditor to state, in the report, whether in the auditor's opinion the return presents fairly the financial transactions contained in the accounting records of which it is based.

Explanatory notes

28. (1) An auditor's report shall contain such statements as the auditor considers necessary where -

- (a) the referendum finances return does not present fairly the information contained in the accounting records on which it is based;
- (b) the auditor has received, from agents and officers of the committee, all the information and explanations that the auditor required; or
- (c) proper accounting records have not been kept by the committee, so far as appears from the auditors' explanation.

Right to access

29. The auditor of a registered referendum committee shall have access, at all reasonable times, to all records, documents, books, accounts, bills, vouchers and receipts of the committee, and may require, from agents and officers of the committee, such information and explanations as in the auditor's opinion may be necessary to enable the auditor to report under section 26.

CHAPTER 8 - REFERENDUM EXPENSES AND CONTRIBUTIONS

Referendum contributions

30. (1) For the purpose of financing its campaign, a registered referendum committee may receive lawful contributions from any legitimate person or organization except for contributions obtained from outside Lesotho.

(2) All contributions shall be deposited into the bank account contemplated in section 32.

(3) A single contribution of Ten Thousand Maloti shall, within five days after a referendum committee receives it, be declared to the Commission.

(4) A leader of a referendum committee who fails to declare contributions provided for under subsection (4) commits an offence and shall on conviction be liable to a fine not exceeding Five Thousand Maloti or to imprisonment for a period not exceeding two years.

Records

31. A registered referendum committee shall keep such records of the referendum expenses and contributions of the committee as the Director may prescribe.

Limitation on referendum expenses

32. No person or group, other than a registered referendum committee, shall incur referendum expenses during a referendum period, without informing the committee of such an expense.

Bank accounts

33. A registered referendum committee shall, with any financial institution, keep such accounts and make such deposits into and payments from the accounts as the Director may prescribe.

Payment out of contributions

34. A registered referendum committee that incurs referendum expenses during the referendum period shall pay the expenses out of the contributions received by it during or after that period.

No contributions after return filed

35. No person shall accept a contribution on behalf of a registered referendum committee after the chief agent of the committee has filed the referendum finances return.

CHAPTER 9 - RECOUNTS AND PUBLICATION OF RESULTS

Constituency referendum results

36. (1) The returning officer may, before declaring constituency results under subsection (2), and in consultation with the Director, order a recount -

- (a) where there is a tie;
- (b) when an elector or an agent requests that a recount be made;
- (c) when directed by the Director; or
- (d) there is an order of the High Court to that effect.

(2) The returning officer shall, immediately upon receipt of the results of the votes for a voting station in a constituency and, in the presence of registered agents of referendum committee and observers declare -

- (a) the name of a Constituency;
- (b) the total number of registered votes in a Constituency;
- (c) votes cast in support of and in opposition to the referendum in question;
- (d) the number of registered votes in a Constituency;
- (e) an aggregate number of cast votes in a Constituency; and
- (f) an aggregate number of rejected votes in a Constituency;

(3) The returning officer shall sign and date the results in the prescribed form and he shall submit -

- (a) a signed copy of the results to the agent of a registered Constituency referendum committee; and
- (b) the original of the signed copy of the Commission or

Director

(4) The decision of the returning officer on the validity or otherwise of a ballot paper or a vote under this Act shall be final, subject to verification by the Commission except where a referendum petition has been filed.

Publication of referendum results

37. (1) The Commission shall on receipt of results of the referendum from all constituencies -

- (a) announce to the public the total number of valid votes cast supporting or opposing the referendum question;
- (b) declare whether or not the proposed issue or question has been ratified by more than fifty percent of the valid votes cast;
- (c) publish by notice in the Gazette indicating the results of the referendum for each constituency;
- (d) publish in the Gazette a certificate in the form set out in Schedule 2 declaring the results of the referendum and confirming whether or not the proposed issue has been ratified in accordance with the provisions of the Act.

(2) The results published in the Gazette shall be the official results of the referendum.

(3) Where the referendum result is a tie, the Commission shall proceed to hold a fresh referendum within ninety days after the declaration of the results.

Challenging the results of a referendum

38. (1) An agent, a chief agent, leader of referendum committee, citizens organization, an observer or elector may not later than ten days after constituency results have been published, apply to the High Court for a recount of the votes cast in the constituency on a referendum question.

(2) An application shall be supported by one or more affidavits or statutory declarations of persons having knowledge of the matters which they attest.

(3) The High Court shall order that the recount be carried out and appoint a time for commencing the recount, if satisfied that -

- (a) votes cast in the voting stations on the referendum question may have been wrongly rejected, counted, added or reported; and
- (b) there is a reasonable possibility that, if the votes are properly rejected, counted, added and reported, the opinion of the majority of the electors in the constituency who cast ballots on that question will be shown to be opposite to what it was shown to be by the original count.

Electors entitled to be present

39. (1) No person shall attend the count of votes under section 38, except a person permitted by the High Court under subsection (2).

(2) Where the High Court is satisfied that the electors who support the question or those who oppose it are not represented at the recount, the Court may order that any three electors represent the electors who are not so represented to attend.

CHAPTER 10 - GENERAL PROVISIONS

No person is required to state how he voted

40. A person who has voted at a referendum shall not in any proceedings, whether brought under this Act or otherwise, be required to state how he has voted.

Prohibition of incitement to public disorder at a referendum

41. (1) A person shall not, while canvassing in a referendum, use any language which is defamatory or which constitutes incitement to public disorder, hatred or violence.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not less than M1, 000.00 and not more than M5, 000.00 or imprisonment for a term not less than one year and not more than five years or both.

Reference in offences provisions

42. For the purposes of a prosecution or proceeding under this Act, the reference in Chapter 11 of the National Assembly Electoral Act, 2011 shall be construed as reference to the Referendum Act.

Costs payable out of Consolidated Revenue Fund

43. All costs incurred by the Commission in the performance of its duties and functions under this Act shall be paid out of the Consolidated Fund.

Regulations

44. (1) The Commission may make regulations -

- (a) in respect to the conduct of a referendum; and
- (b) generally for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Commission may make regulations providing for all or any of the following matters:

- (a) the establishment of voting stations;
- (b) the equipment and facilities to be provided at voting stations;
- (c) the manner and procedure of voting at a referendum;
- (d) the manner of ascertaining the identity of persons wishing to vote at a referendum, and whether such persons are qualified to vote;
- (e) the manner in which persons with disabilities may vote

at a referendum;

- (f) voting by persons employed on referendum duties on the day of a referendum;
- (g) the maintenance of secrecy at a referendum;
- (h) the postponement of, adjournment of and extension of a time for voting in case of riot or violence at a referendum;
- (i) the administration of oaths or affirmations by referendum officers in respect of such matters as may be prescribed;
- (j) the procedure to be followed at the conclusion of voting in a referendum;
- (k) the procedure for counting votes in a referendum and the circumstances in which votes in a referendum may be rejected by a referendum officer as invalid;
- (l) the declaration, notification and publication of the results of a referendum;
- (m) the custody and disposal of ballot papers, records, documents or other things relating to the conduct of a referendum; and
- (n) the forms and records to be used for any of the purposes of this Act.

SCHEDULE 1**Form 1****Kingdon of Lesotho - Referendum Act, 2022
Proclamation of Referendum**

(section4(3)(a))

I, LETSIE III, acting on the advice of the Prime Minister, in accordance with section 4 of the Referendum Act, 2021, proclaim [here insert the date or dates on which a referendum is to be held] as the *day / * days for the holding of a referendum.

I direct the Independent Electoral Commission to ascertain the opinion of the electors by putting a question to the electors of Lesotho by holding a referendum.

DATED:**LETSIE III
KING OF LESOTHO**

Form 2

Kingdom of Lesotho - Referendum Act, 2022
Notice of Referendum

(section 4(4))

1. It is hereby notified that a referendum shall be held on the on the20from 7:00 am to 5:00pm.
2. The question to be voted upon in a referendum is as follows -
.....
.....
3. Each elector shall cast a vote in a voting station where registered.
4. The names of returning officers for each constituency are as follows -

DATED:

DIRECTOR OF ELECTIONS

NOTE

1. Act No. 14 of 2011

GOVERNMENT NOTICE NO. 41 OF 2022

The Parliament of Lesotho**Statement of Objects and Reasons of Referendum Act, 2022**

**(Circulated by the Authority of the Minister of Justice and Law
Honourable Lekhetho Rakuoane)**

The main purpose of the Act is to provide for the manner in which a vote shall be taken for the purpose of obtaining the approval of the electors with respect to a question on any matter of national interest and importance, or a Bill which seeks to alter certain provisions of the Constitution of Lesotho.

It provides for the applicability of the provisions of the National Assembly Electoral Act No. 14 of 2011 and its amendments, and the regulations and other statutory instruments so as to apply procedures relating to the conduct of general elections to a referendum. In other words, it empowers the Commission with the advice of the Director of Elections, to apply the provisions of the National Assembly Act with such modifications for the purposes of a referendum.

Voting at a referendum shall be by secret ballot and effected by way of question, which will require a voter's response to be a tick or cross on or circle around or any other mark that may be placed in the square opposite the word "Yes" or "No" as the Director of Elections may determine. This is the case even where the question relates to the alteration of a provision of the Constitution or is in relation to a Bill.

The Act empowers the Director of Elections to attach a Bill to a notice directing that a referendum be held, if he considers it necessary.

