



LESOTHO

Government Gazette

EXTRAORDINARY

Vol. 67

Wednesday – 31st August, 2022

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Published by the Authority of His Majesty the King

Price: M15.00

ACT NO. 13 OF 2022

National Assembly Electoral (Amendment) Act, 2022

An Act to provide for the amendment to the National Assembly Electoral Act, 2011¹ to expedite the registration of electors, archiving of the current electors' register, and ensuring that all eligible electors are allowed to register and vote by using the National Identity document as proof of identity and to provide for incidental matters.

Enacted by the Parliament of Lesotho.

Short title and commencement

1. This Act may be cited as the National Assembly Electoral (Amendment) Act, 2022 and shall come into operation on the date of its publication in the Gazette.

Insertion of new section

2. The National Assembly Electoral Act, 2022 (hereafter referred to as the principal law) is amended by inserting the following new section after section 3:

“Electors Register

3A. (1) The Commission may register the electors afresh and archive the existing electors register, if satisfied that the new electors register is accurate.

(2) The registration of electors after the archiving of the electors register existing at the time, shall include the electors previously registered and whose particulars are included in the archived electors register.”

Amendment of section 4

3. Section 4 of the principal law is amended -

- (a) by deleting the heading and substituting the words “Registration as an elector” as the heading; and

- (b) in subsection (1), by deleting paragraph (c).

Amendment of section 6

4. Section 6 of the principal law is amended in subsection (1), by deleting paragraph (c)(i) and (ii) and substituting the following:

- “(c) accompanied by the National Identity document as proof of the applicant’s identity.”.

Amendment of section 7

5. Section 7 of the principal law is amended -

- (a) in subsection (1), by deleting paragraph (f); and
- (b) in subsection (3), in line 3, by putting “.” after the word “away” and deleting the rest of the subsection.

Repeal of section 9

6. Section 9 of the principal law is repealed.

Amendment of section 19

7. Section 19 of the principal law is amended in subsection (1) to read as follows:

“19. (1) When an elector dies, the Chief or Headman in whose area an elector was registered or the Director National Identity and Civil Registry, shall inform the Director of the death upon request by the Director.”

Amendment of section 24

8. Section 24 of the principal law is amended in -

- (a) subsection (1), at paragraph (f), by deleting “500” and substituting “5000”; and

-
- (b) subsection (3), in line 3, by deleting “500” and substituting “5000”.

Amendment of section 27

9. The principal law is amended in subsection (1) -

- (a) at paragraph (g), by deleting the word “or” after “;”;
- (b) at paragraph (h), by deleting “.” and substituting “;”
- (c) at paragraph (h), by inserting the word “or” after “;”; and
- (d) by inserting the following new paragraph after paragraph (h);

“(i) the political party has failed to obtain at least 0.4 percent of the total votes cast.”.

- (e) by inserting the following new subsection after subsection (2):

“(3) The political party whose registration was cancelled in terms of section 27(1)(i) may apply to be re-registered after a period of five years from the date on which its registration was cancelled.”.

Amendment of section 47

10. Section 47 of the principal law is amended by -

- (a) adding the following new subsection after subsection (9):

“Threshold

(10) A political party intending to contest proportional representation elections shall qualify for a seat if it has obtained at least 0.5% of all valid votes cast as indicated in Schedule 3;

- (b) deleting subsection (1) and (2) and substituting the following:
 - (1) A political party intending to contest proportional representation elections shall submit a list of constituency candidates to the director in the prescribed form before the date stated in the elections timetable for close of nomination.
 - (2) The list shall -
 - (a) include the names, electors' registration numbers and address;
 - (b) arrange the candidates in order of constituencies they are nominated in;
 - (c) deleting subsection (3); and
 - (d) in subsection (4), by deleting paragraph (c).”.

Amendment of section 73

11. Section 73 of the principal law is amended in subsection (1), by adding the following new:

- (a) paragraph after paragraph (f):

“(g) is resident outside Lesotho.” and
- (b) subsection after subsection (1):

“Diaspora voting

(2) An elector who applies to vote outside the country other than those specified in section 73(1) (a) to (c) shall produce documentary proof of their residence in that other country.”

Amendment of section 74

12. Section 74 of the principal law is amended in subsection (4), by adding the following new paragraph after paragraph (b):

“(c) is a registered elector resident outside Lesotho.”

Amendment of section 82

13. Section 82 of the principal law is amended in -

- (a) subsection (1) by deleting paragraph (b), and
- (b) subsection (2) by deleting -
 - (i) the words “an elector registration card if the registration card is lost or destroyed” and substituting the words “the National Identity document”; and
 - (ii) paragraphs (a) and (b).

Amendment of section 83

14. Section 83 of the principal law is amended in subsection (2) at paragraph (a) by inserting the words “an agent” between the words “an electoral officer” and the words police “office”.

Repeal of section 105

15. section 105 of the principal law is repealed and substituted with the following:

“Threshold

105. (1) A political party that has contested in the elections shall be entitled to be allocated a seat if it has obtained at least 0.4 percent of all the valid votes cast as indicated in Schedule 3.

(2) A seat allocated in terms of section 104 shall be allocated to the best loser of a political party, in a sequential order, ranking from the leader of that political party, the candidate who has obtained the highest number of votes to the candidate who has obtained the lowest number of votes.

(3) Where a leader referred to in subsection (2) has obtained a constituency seat, the allocation of seat shall be in such a manner ranking from the candidate who obtained the highest number of votes.

(4) Notwithstanding subsection (3), in the event that the names of either gender have been exhausted, the best loser approach shall be applied regardless of the gender.

(5) In the event that more than two candidates of a political party have obtained an equal number of votes, the candidate who has obtained the highest percentage of votes in their respective constituencies, shall be allocated a seat.”.

Amendment of section 123

16. Section 123 of the principal law is amended by deleting subsections (4), (5) and (6) and substituting the following:

“Tribunal

(4) The Tribunal adjudicating an alleged infringement of the code may impose any sanction it considers appropriate under the circumstance.”

Amendment of section 152

17. Section 152 of the principal law is amended in subsection (1) at paragraph (a) by adding the following new subparagraph after subparagraph (ii):

“(iii) Lesotho citizens resident outside Lesotho and within their jurisdiction.”.

Insertion of new section

18. The principal law is amended by inserting the following section after section 190:

“Floor crossing

190A. (1) A member of the National Assembly representing a constituency may cross the floor -

- (a) at the end of three years after the beginning of a term of Parliament; and
- (b) after the Speaker of the National Assembly has determined a fifteen-days window period.

(2) A member who crosses the floor, at any time outside the period referred to in subsection (1), shall vacate his or her seat in the National Assembly, and by-election shall be held in that constituency.

(3) A person who is a member of the National Assembly through proportional representation shall -

- (a) not cross the floor;
- (b) vacate his or her seat if -
 - (i) he or she expressly renounces the membership of the party whose seat he or she occupies in the National Assembly or joins another political party;
 - (ii) the political party whose seat he or she occupies in the National Assembly, after following due process, informs the Speaker or the National Assembly that that person is no longer a member of that party; and

- (iii) he or she votes against his or her party in a Motion of No Confidence or Appropriation Bill.”.

Transition

19. Sections 11 and 17 of this Act shall come into operation on a date to be appointed by the Minister in the Gazette.

20. Schedule 3 of the principal law is amended by -

- (a) inserting section 2 and 3 after section 1, and renumbering accordingly; and
- (b) inserting the following:

“SCHEDULE 3 - ALLOCATION OF SEATS

(Section 104)

1. The Commission shall then determine 0.4 percent of the total votes cast.
2. The Commission shall identify the political parties which have attained less than 0.4 percent of the total votes cast and disqualify them for consideration for allocation of proportional representation seats.
3. The Commission shall determine the total votes for political parties which qualify for consideration for allocation of proportional representation.”.

NOTE

1. Act No. 14 of 2011

GOVERNMENT NOTICE NO. 46 OF 2022

The Parliament of Lesotho**Statement of Objects and Reasons of the National Assembly Electoral
(Amendment) Act, 2022**

**(Circulated by authority of Minister responsible for justice and law Hon-
ourable Lekhetho Rakuoane**

The main object of this Act is to make provision for the amendment of the National Assembly Electoral Act, 2011 to provide for the archiving of the current electors' register, expediting the registration of electors, ensuring that all eligible electors are allowed to register and vote using National Identity document, establishing a threshold for a political party which intends to contest for proportional representation elections and cancellation of the registration of a political party which failed to obtain at least five hundred votes in the general elections and for related matters.

