



LESOTHO Government Gazette

Vol. 64

Friday – 8th November, 2019

No. 62

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Published by the Authority of His Majesty the King
Price: M19.00

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National Reforms Authority Act, 2019

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ACT NO. 4 OF 2019

National Reforms Authority Act, 2019

An Act to provide for the establishment of the National Reforms Authority; management, coordination and leadership of the reforms process in the implementation of the resolutions and decisions of Plenary II for the promotion of stakeholder consensus and national stability, unity and reconciliation; and for incidental matters.

ENACTED by the Parliament of Lesotho.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Reforms Authority Act, 2019 and shall come into operation on the date to be appointed by the Minister by notice published in the Gazette.

Interpretation

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

“Authority” means the National Reforms Authority established under section 4;

“Chairperson” means the Chairperson of the Authority;

“member” means a member of the Authority appointed under section 5;

“Minister” means the Minister responsible for law, constitutional affairs and human rights;

“MSND” means the Multi-Stakeholder National Dialogue on the national reforms;

“Plenary II” means the concluding plenary session which will draw conclusions of the entire MSND process provided for under the National Reforms Dialogue Act, 2018¹;

“SADC” means the Southern African Development Community; and

“thematic areas of reforms” means the areas covered in the national reforms process spelt out under section 8(1)(d).

Objectives of the Act

3. The objectives of this Act include -
- (a) the establishment of the National Reforms Authority as the successor of the National Dialogue Planning Committee established under the National Reforms Dialogue Act, 2018;
 - (b) safeguarding the national reforms process by ensuring that citizens’ voices are heard and given effect;
 - (c) promotion of stakeholder consensus on the national reforms and long-term national stability, unity and reconciliation;
 - (d) effective and efficient management, coordination, oversight and strategic leadership in the national reforms process; and
 - (e) expedition of the national transformation of Lesotho through an independent, transparent and accountable structures of the law reform process in the implementation of the resolutions and decisions of Plenary II.

Establishment of the Authority

4. There is established an authority to be known as the National Reforms Authority which shall have such powers and perform such functions as are necessary for the attainment of the objectives of this Act.

Composition of the Authority

5. (1) The Authority shall consist of -

- (a) one representative of each of the following political parties registered with the Independent Electoral Commission at the coming into operation of this Act -
- (i) African Ark;
 - (ii) African Unity Movement;
 - (iii) All Basotho Convention;
 - (iv) All Democratic Cooperation;
 - (v) Alliance of Democrats;
 - (vi) Areka Ea Baena;
 - (vii) Basotho Batho Democratic Party;
 - (viii) Basotho Democratic National Party;
 - (ix) Basotho National Party;
 - (x) Basotho Redevelopment Party;
 - (xi) Basotho Thabeng ea Sinai;
 - (xii) Basutoland African National Congress;
 - (xiii) Basotho Congress Party;
 - (xiv) Basutoland Total Liberation Congress;
 - (xv) Community Freedom Movement;
 - (xvi) Democratic Congress;
 - (xvii) Democratic Party of Lesotho;
 - (xviii) Hamore Democratic Party;

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- (xix) Lekhotla la Mekhoa le Meetlo;
 - (xx) Lesotho Congress for Democracy;
 - (xxi) Lesotho Peoples Congress;
 - (xxii) Lesotho Workers Party;
 - (xxiii) Majalefa Development Movement;
 - (xxiv) Marematlou Freedom Party;
 - (xxv) Movement for Economic Change;
 - (xxvi) Mpulule Political Summit;
 - (xxvii) National Independent Party;
 - (xxviii) Popular Front for Democracy;
 - (xxix) Progressive Democrats;
 - (xxx) Reformed Congress of Lesotho;
 - (xxxi) Senkatana Social Democracy;
 - (xxxii) Socialist Revolutionaries;
 - (xxxiii) The White Horse Party;
 - (xxxix) True Reconciliation Unity; and
 - (xxxv) Tsebe Social Democrats;
- (b) the Minister of Law, Constitutional Affairs and Human Rights or his representative;
 - (c) the Minister of Foreign Affairs and International Relations or his representative;

- (d) the Attorney General or his representative;
- (e) one representative of each of the following institutions -
 - (i) principal chiefs;
 - (ii) chiefs;
 - (iii) headmen;
 - (iv) academia organisations;
 - (v) business sector organisations;
 - (vi) citizen mobilisation organisations;
 - (vii) democracy organisations;
 - (viii) faith-based organisations;
 - (ix) farmers organisations;
 - (x) governance and political rights organisations;
 - (xi) human rights organisations;
 - (xii) labour organisations;
 - (xiii) media organisations;
 - (xiv) people with disability organisations;
 - (xv) professionals organisations;
 - (xvi) students formulations;
 - (xvii) the law society of Lesotho
 - (xviii) the Lesotho Council of Non-governmental Organisations;

-
- (xix) traditionalists organisations;
 - (xx) women rights organisations; and
 - (xxi) youth organisations.

(2) The members referred to in subsection (1)(b), (c) and (d) shall be ex-officio members, and shall -

- (a) at meetings of the Authority, only take part in the debates and discussions, but shall not vote on any issue;
- (b) be included in the counting of members to determine the quorum.

(3) An institution shall not qualify to nominate a representative under paragraphs (iv) to (xxi) unless the institution is legally registered at the coming into operation of this Act.

(4) The Lesotho Council of Non-governmental Organisations shall convene meetings for the purposes of nominating candidates to represent institutions referred to in paragraphs (i) to (xxi), and shall in so doing take into account the diversity in each sector.

(5) A person shall not become a member under subsection (1), unless the person has -

- (a) a proven record of contribution towards the advancement of; and
- (b) been duly nominated by, the sector he represents.

(6) An institution may not withdraw its representative from the Authority, unless it has given the representative a written notice and an opportunity to make a representation seven days prior to the withdrawal.

(7) The Minister shall, by notice in the Gazette, publish the names of the members.

(8) The Minister shall not publish the names of the members, unless

two-thirds of the names of members have been submitted.

(9) The decisions of the Authority shall not be affected by any defect in the membership of the Authority.

Independence and accountability of the Authority

6. (1) The Authority shall be independent and transparent in the performance of its functions under this Act and shall not be subject to the direction and control of any person or authority.

(2) The Authority shall be accountable to both Houses of Parliament.

(3) A person or body with legitimate interest in matters related to the Authority may request information in respect of the national reforms or the Authority.

(4) The decisions and activities of the Authority shall be publicised through any appropriate communication channels.

(5) The decisions of the Authority are final and binding on all political parties and the institutions whose candidates were members or participated in the deliberations and activities of the Authority.

Powers of the Authority

7. (1) The Authority shall, in performing its functions under section 8 have the power to -

- (a) hold such meetings as may be necessary for purposes of collecting any information relevant for national reforms, at any place and time as it may determine;
- (b) subpoena any person to provide oral or written information to the Authority where it considers such information necessary for achieving its objectives;
- (c) invite any person whether individual, juristic person or group of people to make presentations to the Authority on any matter relating to the national reforms;

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- (d) request and obtain any information or documents necessary for achieving its objectives under the Act, from any relevant institution;
 - (e) request and obtain, subject to any other provision of this Act, all such information or, documents as may be necessary for attaining its objectives, from the relevant public institutions;
 - (f) take decisions on all matters relating to its objectives and to ensure the implementation of such decisions by making recommendations to relevant structures;
 - (g) recommend changes to existing laws, including the Constitution, to relevant public institutions in order to enable it to attain its objectives;
 - (h) take such lawful steps as may be necessary to exercise its powers; and
 - (i) take such lawful action as may be necessary to fulfill its objectives.
- (2) The Authority may -
- (a) engage the services of an expert; or
 - (b) invite any person or body to sit as an observer at its meeting,

where it considers necessary in the performance of its functions under this Act.

- (3) A person who -
- (a) makes a false representation to the Authority;
 - (b) having been subpoenaed, invited or requested to give information or documentation under subsection (1)(b), (c) and (e) fails to do so,

commits an offence and is liable on conviction to a fine not exceeding five thousand Maloti or to imprisonment for a period not exceeding one year or both.

Functions of the Authority

8. (1) Without limiting the generality of section 4 and subject to section 6, the functions of the Authority are to -

- (a) oversee and manage the process of the national reforms concerning the decisions and resolutions of Plenary II;
- (b) ensure the implementation of the national reforms and shall to that end be the custodian of the reforms;
- (c) propose and approve policy documents, draft Bills and any legal instruments from the Chief Executive Officer as may be necessary for national reforms in line with the resolutions and decisions of Plenary II;
- (d) appoint not more than three technical Committees in each of the following thematic areas of reforms -
 - (i) Constitutional reforms;
 - (ii) Parliamentary reforms;
 - (iii) Security sector reforms;
 - (iv) Judicial sector reforms;
 - (v) Public sector reforms;
 - (vi) Economic reforms; and
 - (vii) Media sector reforms;
- (e) liaise with the executive and the Parliament through the Minister for the purposes of discharging its functions under this Act;

-
- (f) identify and recommend to the Parliament issues, relating to the national reforms, which need urgent attention;
 - (g) approve the progress reports, after every three months, and the final report on completion of its functions;
 - (h) present relevant draft Bills and legal instruments to the Parliament through the Minister;
 - (i) recommend and formulate plans for structures for dialogue on national reforms for purposes of national peace-building and reconciliation;
 - (j) prioritise the national reforms process in accordance with their urgency;
 - (k) ensure that -
 - (i) the management of the Authority adheres to the provisions of this Act;
 - (ii) the Chief Accounting Officer uses the money, allocated to the Authority, for its intended purpose; and
 - (iii) the management of the Authority formulate guidelines and plans for the national reforms in line with the resolutions and decisions of Plenary II.

(2) The Authority may establish one or more committees and engage the services of an expert for purposes of advising the Authority, but the Authority may not delegate its powers, duties or responsibilities to the committee so established or the expert so engaged.

Removal from office

9. (1) A member may resign by giving a signed notice of resignation to the Authority.

- (2) The Authority may remove a member from office, if the member -
- (a) loses his membership in the party, institution or the political party or the institution he represents is deregistered by law;
 - (b) is incapable of performing the duties of a member;
 - (c) is engaged in a misconduct;
 - (d) is absent, without leave of the Authority or reasonable excuse, from three consecutive meetings of the Authority;
 - (e) is convicted of an offence and sentenced to prison without an option of a fine.

(3) The Chairperson shall not remove a member from the Authority, unless he has given the member a written notice and an opportunity to make a representation seven days prior to the removal.

(4) The Authority shall, where there is a vacancy in an office of a member, request the relevant institution to nominate a person to fill the vacancy.

Meetings of the Authority

10. (1) The Minister shall, in writing, convene the first meeting of the Authority, and once the Chairperson has been elected, he will be responsible to convene subsequent meetings of the Authority.

(2) The members of the Authority shall elect the Chairperson and Deputy Chairperson from amongst themselves at their first meeting, and the Minister shall publish their names by notice in the Gazette.

(3) The Chairperson shall preside at all meetings of the Authority and in the absence of the Chairperson, the Deputy Chairperson shall preside, and in the absence of the Chairperson and Deputy Chairperson, the members shall elect one of their number to preside.

(4) A notice for regular meeting shall be given in writing to each

member of the Authority by hand, mail or facsimile at least five days prior to the date of the meeting.

(5) A special meeting notice shall be given in writing to each member of the Authority by hand or facsimile at least seventy-two hours before the date and time of the meeting.

(6) Notwithstanding subsections (1) and (2), a meeting may be held on a shorter notice, if, at least, thirty-one voting members of the Authority agree, in writing, to holding that meeting and waive the requirement to receive notice in respect of such a meeting.

(7) The quorum at all meetings of the Authority shall be thirty-one of the members present at the meeting.

(8) Decisions of the Authority shall be taken by two thirds majority of the members present and voting.

(9) A member shall have one vote.

(10) At the meeting, in the event of equality of votes and in a decision concerning an administrative matter, the Chairperson shall have a casting vote.

(11) The Authority shall determine its own rules of procedure for the conduct of its functions except as otherwise provided by this Act.

Remuneration of members

11. A member is entitled to receive and shall be paid such an allowance as may be determined by the Minister in consultation with the Minister responsible for finance.

Tenure and dissolution of the Authority

12. (1) The Authority shall perform its functions within a period of one year from the date of the constitution of the Secretariat.

(2) Where the Authority is unable to complete its functions within a period of one year, the Authority may request the Minister to extend its duration for a period not exceeding six months or until the end of seven days after the

last Bill receives the Royal Assent or the last legal instrument is tabled before the Parliament, whichever comes first.

(3) Notwithstanding subsections (1) and (2), the Minister may reconvene the Authority where the exigencies of the Kingdom of Lesotho so requires for the purposes of peace and reconciliation, and in furtherance of the objectives of this Act and functions of the Authority under this Act, subject to such terms and conditions, and modifications of the provisions of this Act as he may consider necessary by notice published in the Gazette.

PART II - STAFF AND MANAGEMENT OF THE AUTHORITY

Secretariat

13. (1) There shall be the Secretariat of the Authority.
- (2) The Secretariat shall consist of -
- (a) the Chief Executive Officer;
 - (b) the Deputy Chief Executive Officer;
 - (c) seven qualified and experienced experts in respect of the thematic areas of reforms; and
 - (d) such other members of staff as the Authority may consider necessary for the better performance of its functions.

Chief Executive Officer and Deputy Chief Executive Officer

14. (1) The Chief Executive Officer and Deputy Chief Executive Officer shall be -
- (a) appointed by the Authority through a fair and transparent process; and
 - (b) persons with relevant qualifications, experience and skills in public administration, financial management or law.

(2) The positions of Chief Executive Officer and Deputy Chief Executive Officer shall be publicly advertised by the Chairperson.

(3) The Chief Executive Officer shall be the Chief Accounting Officer of the Secretariat responsible for the following -

- (a) the day to day administration and management of all the affairs of the Authority;
- (b) recording of the proceedings of the Authority;
- (c) keeping and maintenance of records of the Authority;
- (d) preparation of -
 - (i) progress reports of the Authority after every three months; and
 - (ii) the final report on completion of the functions of the Authority,for submission to the Chairperson for approval by the Authority; and
- (e) any other relevant duty which may be assigned to him by the Authority in the performance of its functions.

Staff of the Authority

15. (1) The Chief Executive Officer shall, on the approval of the Authority, appoint -

- (a) seven qualified and experienced persons as technical heads of the agreed thematic areas of reforms as set out in section 8(1)(d);
- (b) such other members of staff of the Authority as the Authority may consider necessary for the better performance of its functions and in line with the funds allocated to the Authority for the purposes of this Act.

(2) The appointment of the staff of the Authority shall be on contract basis and on such terms and conditions as the Authority may determine in consultation with the Minister and the Minister responsible for finance.

(3) Notwithstanding subsection (1), and subject to the Public Service Act, 2005², the Minister may, at the request of the Authority and in consultation with the Minister responsible for -

- (a) public service and with the approval of the Public Service Commission, designate, to the Authority, such public officers under such terms and conditions as may be necessary for carrying out of the functions of the Authority, for a specified period; and
- (b) finance shall determine the remuneration and allowances of the staff of the Authority.

(4) An officer designated to the Authority pursuant to subsection (3)(a) shall, for the specified period, be responsible to the Authority.

Immunity of members and staff of the Authority

16. Members and staff of the Authority are not liable to any civil action for anything done or omitted to be done in good faith in the performance of their functions under this Act.

Submission of reports

17. The Chairperson shall submit quarterly progress reports after every three months and the final report on completion of the functions of the Authority to both Houses of Parliament, the Minister and SADC.

PART III - FINANCIAL PROVISIONS

Funds

18. (1) The funds of the Authority shall consist of funds received from the Consolidated Fund and all monies that may be donated, contributed or granted to the Authority from whatever lawful source.

(2) All expenses of the Authority shall be charged and issued out of the Consolidated Fund in accordance with the Public Financial Management and Accountability Act, 2011³.

(3) Notwithstanding subsection (2), monies from whatever lawful source shall be applied exclusively to the fulfillment of the purposes of the Authority in accordance with the agreement between the Government, the funders and this Act.

Accounts and audit of the Authority

19. (1) The Chief Executive Officer shall -
- (a) keep or cause to be kept proper books of accounts of the Authority; and
 - (b) prepare or cause to be prepared a status of accounts or expenditure of the Authority every calendar month in accordance with the Public Financial Management and Accountability Act, 2011.

(2) The Chief Executive Officer shall submit the status of accounts or expenditure to the Chairperson for submission to the Auditor General at the end of every calendar month.

(3) The Chief Executive Officer shall keep proper accounts and other financial records in relation to its operations and accounts and records shall conform to international accepted standards.

Obstruction of the Authority and its officers

20. A person who knowingly obstructs, prevents, or interferes with the Authority in the exercise of its functions under this Act commits an offence and is liable on conviction to a fine not exceeding five thousand Maloti or to imprisonment for a period not exceeding one year or both.

Oath of office

21. (1) A member of the Authority shall, before assuming office make and subscribe to an oath of office as set out in the Schedule I before a Judge of

the High Court.

(2) A member of staff of the Authority shall, before assuming office, subscribe to an oath of secrecy as set out in Schedule II and in the case of -

- (a) the Chief Executive Officer and the Deputy Chief Executive Officer, it shall be before the Chairperson; and
- (b) other members of staff of the Authority, it shall be before the Chief Executive Officer.

(3) A member or member of staff of the Authority -

- (a) shall be responsible for the protection and confidentiality of classified and secret information that comes to his knowledge or possession; and
- (b) who -
 - (i) deliberately manipulates, distorts or alters a document with the intention to falsify or change the outcome of the national reforms; or
 - (ii) discloses information which is in his protection and confidentiality,

commits an offence and is liable on conviction to a fine of five thousand Maloti or removal from office.

Regulations

22. The Minister may, in consultation with the Authority, make regulations for giving effect to the provisions of this Act.

NOTE

- 1. Act No. 6 of 2018
- 2. Act No. 1 of 2005
- 3. Act No. 12 of 2011

SCHEDULE I

(section 21(1))

OATH OF OFFICE

In the presence of the Almighty God and in the full realization of the responsibilities and duties of the office of a member of the Authority and of the binding nature

and the binding force of this oath:

“I do swear/affirm that I shall conscientiously and faithfully discharge my duties and obligations as a member of the Authority in upholding and attaining the objectives of the Authority, and solemnly undertake that my commitment in participating in the activities of the Authority remains absolutely inflexible, and further that I shall always forbear from disclosing any information of whatever nature which may come into my possession as a member of the Authority to any unauthorized person.

SO HELP ME GOD

.....
(Signature)”.
.....

Sworn before me at on this day of 2019

.....
JUDGE

SCHEDULE II

(section 21(1))

OATH OF SECRECY

I solemnly and sincerely swear that I will faithfully and honestly fulfill the duties that devolve upon me by reason of my engagement with the Authority and that I will not, without due authority, disclose and make known any matter that comes to my knowledge by reason of such engagement.

SO HELP ME GOD

.....
(Signature)".

Sworn before me at on this day of 2019

.....
Chairperson/Chief Executive Officer

GOVERNMENT NOTICE NO. 20 OF 2019

The Parliament of Lesotho

**Statement of Objects and Reasons of the National
Reforms Authority Act, 2019**

**(Circulated by the Authority of the Minister of Law, Constitutional
Affairs and Human Rights Hon. Mokhele Moletsane)**

The purpose of this Bill is to establish the National Reforms Authority as a successor of the National Dialogue Planning Committee that was established under and regulated by the National Reforms Dialogue Act, 2018¹. The Bill intends to provide for the continuation of the national reforms process by recognising the objectives for which the National Reforms Dialogue Act was enacted. Therefore the Authority will continue to facilitate the national transformation of Lesotho to a just, prosperous and stable society through -

- (a) the promotion of long-term national stability, unity, reconciliation and peace-building structures;
- (b) the creation of professional, functional and efficient institutions for the effective management of public affairs, service delivery and development; and
- (c) building a national consensus and implementation of Constitutional reforms, Parliamentary reforms; security sector reforms, judicial sector reforms, public sector reforms, economic reforms and media sector reforms changes as may be needed.

The primary objective of the establishment of the Authority is to empower the Authority to coordinate, oversee and strategically lead in the implementation of the resolutions and decisions of the Second Plenary. The Second Plenary being the concluding plenary session of the Multi-Stakeholders National Dialogue on national reforms. The Bill proposes that the Authority operates independently of control or direction of any person or authority with a view to ensure transparency, the rule of law and involvement of the entire nation through its multi sectors. The Authority is only accountable to the Parliament.

The Bill constitutes the Authority with forty-five members made up of one rep-

representative from each political party registered with the Independent Electoral Commission and civil organisations in Lesotho. The Authority is headed by a Chairperson.

The Bill Proposes the establishment of the Secretariat of the Authority whose mandate is the management and administration of the activities, and implementation of the decisions of the Authority. The Secretariat is headed by the Chief Executive Officer who is the Chief Accounting Officer of the Authority responsible for day to day administration of the Authority and he acts through his staff. The Secretariat is responsible for the recording of the proceedings of the Authority, the upkeep and maintenance of its records. It prepares, through the Chief Executive Officer, quarterly progress reports and the final report of the Authority for submission to the official leader of parties in Parliament, SADC Facilitator and Government of the Kingdom of Lesotho.

The Bill proposes that the Authority will operate for a period of twelve months. The twelve months period may be extended by the Minister for a period of up to six months or until such time the last Bill receives the Royal Assent, whichever comes first between the two scenarios. The rationale being to enable the Authority to complete its mandate.

1. Act No. 6 of 2018