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LEGAL NOTICE NO. 123 OF 2020

National Reforms Authority Regulations, 2020

Pursuant to section 22 of the National Reforms Authority Act, 2019¹, I,

NQOSA LEUTA MAHAO

Minister responsible for justice and law, make the following regulations -

Citation and commencement

1. These regulations may be cited as the National Reforms Authority Regulations, 2020 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these regulations unless context otherwise requires -

“Act” means the National Reforms Authority Act, 2019;

“Attorney-General” means a person appointed as such under section 140(1) of the Constitution of Lesotho;

“Chairperson” means the Chairperson of the Authority;

“Chief Executive Officer” means the Chief Executive Officer of the Authority;

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

“plenary” means a meeting of the Authority convened in terms of section 10(1) of the Act.

Representative of ex-officio Members

3. (1) Where an ex-officio member decides to nominate a representative to represent him in the business of the Authority pursuant to section 5 of the Act,

the ex-officio member shall formally write to the Chief Executive Officer for onward presentation to the Chairperson of the Authority informing the Chairperson of the nominated representative.

(2) The nominated representative shall take oath of office but he shall not attend meetings of the Authority at the same time as the ex-officio member.

(3) The representative shall be a person from the same institution as the ex-officio member.

Access to information

4. (1) A person who wishes to have information in relation to the work of the Authority shall request such information from the office of the Chief Executive Officer who shall, with the authority of the Chairperson, provide such information within a period of five working days, or if there is a need for more time to provide the information, within a period not exceeding twenty-one days.

(2) Where more time is needed to provide the information, the Chief Executive Officer shall duly inform the person seeking information.

Information sharing

5. The activities of the Authority shall be published by way of press conferences, public gatherings (pitso's), newspapers, radio stations, print media, television and any other electronic media including brail with the approval of the Chairperson.

Failure by political parties and institutions to abide by the decisions of the Authority

6. A representative of a political party or institution who fails to comply with a decision of the Authority shall be suspended from the Authority until the representative complies with the decision of the Authority.

Procedure for subpoena, invitation, and request for information

7. Pursuant to section 7(1)(b) and (c) of the Act, where the Authority -

-
- (a) decides to subpoena any person to provide oral or written information which it considers necessary for achieving its objectives, the Authority shall issue a subpoena as set out in the Schedule;
 - (b) wishes to invite a person, an individual or juristic, it shall do so by means of a letter from the office of the Chairperson; and
 - (c) requests information from a public institution, the Chief Executive Officer of the Authority shall contact the Head of such institution.

Meetings of the Authority

8. (1) The meetings of the Authority shall be convened by the Chairperson as determined by the business of the Authority at such place and time as may be determined by the Chairperson.

(2) Decisions of the Authority on administrative issues shall be taken by simple majority of members present and voting, while decisions on substantive issues on the reforms shall be taken by two thirds majority of members present and voting.

- (3) Minutes of meetings of the Authority, when dealing with -
 - (a) administrative matters, shall be kept by the Chief Executive Officer and shall be subject to adoption; and
 - (b) substantive issues of the reforms, the record of proceedings in the committees shall be maintained and kept in the custody of the Chief Executive Officer.

Validity of proceedings

9. Pursuant to section 5(9) the validity of any act, decision or proceedings of the meetings of the Authority shall not be affected by any vacancy in the membership or any other defect in the appointment of a member or by reason that a person who was not entitled to take part in the deliberations participated.

Disclosure of interest

10. (1) A member who has pecuniary or other interest, direct or indirect, in any matter under consideration by the Authority shall, as soon as practicable, after the commencement of the meeting, disclose all the material facts to the Authority and shall not take any further part in the meeting with respect to that matter.

(2) However, the Authority may recuse or allow a member to continue as part of the meeting.

(3) A member who contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding five thousand Maloti or imprisonment for a period not exceeding one year or both as set out under section 6 of the Act.

(4) Decisions of the Authority which directly or indirectly benefit a member who failed to disclose an interest shall be null and void.

Composition of a technical committees under each thematic area of the reforms

11. (1) A technical committee of a thematic area of the reforms shall be made of -

- (a) members of the Authority based on the principle of proportionality and inclusivity representing -
 - (i) political parties outside Parliament;
 - (ii) opposition parties in Parliament;
 - (iii) political parties in the coalition Government;
 - (iv) civil society;
 - (v) chiefs; and
 - (vi) Government.

-
- (b) a thematic area expert who shall be responsible for research and provide technical guidance and advise to the committee and shall also be the head of the staff assigned to the committee; and
 - (c) a member of the Secretariat appointed by the Chief Executive Officer as the technical committee secretary.

(2) Each technical committee shall elect its own chairperson from among members of the Authority who form part of the committee.

The process of implementation of the Reforms (Decisions of Plenary II)

12. (1) The Authority may invite the public to make oral and written submissions and representations on specific issues of Plenary II as individuals or organisations.

(2) Members of the public may volunteer to address the Authority on issues of the agenda.

(3) The committee shall discuss the decisions of Plenary II and also consider the submissions made under subregulations (1) and (2).

(4) After the discussions and decisions are made, the committee shall draw up the policies and legislative principles on the issues.

(5) The chairperson of the committee shall present the report of the committee to the Chairperson for onward presentation to the plenary of the Authority in terms of the agreed procedure for debate and decisions.

(6) Upon approval by the plenary, the Chairperson shall deliver the decisions of the plenary to the Chief Executive Officer for implementation.

(7) On receipt of the plenary decisions, the Chief Executive Officer shall assemble a team of experts from members of the Secretariat for the preparation of the policy document or draft bills and legislative instruments.

(8) On completion of the exercise described in subregulation (7), the Chief Executive Officer shall submit a draft policy document, draft bill and or draft legislative instrument to the Authority through the Chairperson for a final

decision.

(9) Following the approval of the draft policy document, draft bill and or draft legislative instrument in terms of subregulation (8), the Chairperson shall submit the same to the relevant Minister for onward presentation to Parliament.

(10) The Technical Committee shall, in the discharge of its functions, use the Plenary II, In-District Consultation, Diaspora and experts reports and written submissions as working documents.

Removal from Office

13. (1) A member of the Authority may resign from the Authority by giving the Chairperson a written notice of not less than seven working days.

(2) The Chairperson shall inform -

- (a) members and the Minister of the notice of intention to resign from the Authority within a period of twenty-four hours following receipt of the notice from a member;
- (b) the political party or organisation that the member represents in the Authority, of the member's decision to resign from the Authority.

(3) Where the Authority intends to remove a member from office under section 9(2)(a), (b) (c), (d) of the Act, the Chairperson shall refer the case to the Committee on Code of Conduct and Ethics established under the Rules of Procedure of the Authority.

(4) The Committee on Code of Conduct and Ethics shall afford the member a fair hearing and make such recommendations as may be appropriate to the plenary.

(5) Once the plenary has taken a decision to remove the member from the Authority, the Chairperson shall, within twenty-four hours, inform the relevant political party or institution with a copy to the Minister about the decision of the Authority.

Office of the Chairperson and Deputy Chairperson

14. (1) The Chairperson is the head of the Authority and accountable to it.

(2) The Deputy Chairperson shall deputise the Chairperson and perform all the duties of the Chairperson in the absence of the Chairperson and may perform any such other relevant duty as may be assigned to him.

(3) The Chairperson may be removed from office by a resolution of a vote of no confidence supported by a vote of two thirds majority of all members.

(4) The Chairperson may also be removed from office through a resolution supported by simple majority of all members of the Authority under the following circumstances -

- (a) if he is incapable of performing the duties of the Chairperson;
- (b) is engaged in a misconduct; or
- (c) is absent without leave of the Authority or reasonable excuse from three consecutive meetings of the Authority.

(5) The Deputy Chairperson may be removed from office through a vote of no confidence by resolution of the Authority supported by a vote of 51% of all members.

(6) The provisions of subregulation (4)(a), (b) and (c) shall apply with modifications in the removal from office of the Deputy Chairperson.

(7) Where the Authority intends to remove the Chairperson or Deputy Chairperson from office in terms subregulation (4)(a), (b) and (c), the plenary shall refer the matter to the Committee on Code of Conduct and Ethics for hearing.

(8) The Committee on Code of Conduct and Ethics shall afford the Chairperson or Deputy Chairperson a fair hearing and make recommendations to the plenary before a vote is taken.

Remuneration of members

15. (1) The members shall be paid on a monthly basis on or before the last day of every month such an allowance as may be determined by the Minister in consultation with the Minister responsible for finance.

(2) The Minister shall publish the determined allowances and privileges of members by notice in the Gazette.

(3) The principle of “No Work No Pay” shall apply where a member is absent from duty without leave or reasonable excuse and in the event of such an absence, the member’s allowance shall be paid on pro-rata basis in accordance with the number of meetings the member has attended on any given month.

Submission of reports

16. Pursuant to section 17 of the Act, the Chairperson shall submit a quarterly progress report to the Speaker of the National Assembly, President of the Senate, the Minister and SADC facilitator not more than two days after the completion of the report.

Staff and management of the Authority

17. The Chief Executive Officer shall directly be responsible and report to the Authority through the Chairperson in the exercise of his duties and functions.

Code of good practice

18. (1) The Code of Good Practice issued under section 15 of the Public Service Act, 2005, and the Public Service Regulations, 2008 shall apply to the Secretariat of the Authority with such modifications as may be necessary for the purposes of defining acceptable behaviour of individuals in an organization.

(2) The Authority shall develop its code of conduct and rules of procedure.

Budget and Account

19. (1) The budget allocation of the Authority shall be made directly to the Authority and shall be under the management and control of the Chief Executive

Officer as its chief accounting officer.

(2) The Minister responsible for finance shall authorise the Authority to open a bank account with a local bank, and the signatories shall be the –

- (a) Chief Executive Officer;
- (b) Deputy Chief Executive Officer; and
- (c) Finance Manager.

Procurement of goods and services

20. In procuring goods and services the Authority shall comply with the Public Financial Management and Accountability Act, 2011⁴ and the Treasury Regulations, 2014⁵ or any subsequent Act.

Creation of posts

21. (1) The Authority shall create an organisational structure of the Secretariat on the recommendation of the Chief Executive Officer.

(2) The Chief Executive Officer shall cause the development of job descriptions for each post, which shall be approved by the Authority.

(3) The job descriptions, titles and number of posts shall meet the objectives of the Authority and all job descriptions shall be cognisant and aligned to the core mandate of the Authority, and shall indicate the -

- (a) main objective of the post; and
- (b) requirements of the job.

(4) The Authority shall determine the salary and benefits of newly created posts in consultation with the Minister and the Minister responsible for finance.

Principles applicable to recruitment of staff

22. (1) The Chief Executive Officer shall ensure employment equity, non-

discrimination, gender equality, fairness and efficiency in the recruitment of staff.

(2) However, the Chief Executive Officer shall determine the health requirements for incumbency of a post to ensure that a recruit is sufficiently fit and proper person to meet the requirements of the job.

(3) The Chief Executive Officer shall not employ a minor.

Advertising and application of vacant posts

23. (1) The Chief Executive Officer shall ensure that new and vacant posts are widely advertised in the popular local media so as to reach, as efficiently and effectively as possible, the entire pool of potential applicants.

(2) Advertisement of new and vacant posts shall be placed in the international media, where necessary.

(3) Advertisement shall run for a period of 21 working days.

(4) A vacant position shall be re-advertised in the event that a suitable candidate is not identified.

(5) In the event that, after re-advertisement, a suitable candidate is not found, the Chief Executive Officer may request the Authority to head-hunt a suitable candidate who shall be appointed subject to the approval of the Authority.

(6) An application shall be considered complete, if the applicant has attached all the required documentary evidence including academic and technical qualifications.

(7) An application for employment shall be submitted physically or send by electronic mail to the Chief Executive Officer.

(8) The Chief Executive Officer shall ensure that all applications received are registered.

(9) Notwithstanding subsection (1), the Authority may request Government to second officers to occupy certain positions in the Secretariat in line with

section 15(3) of the Act.

Staff selection panel

24. (1) For purposes of appointing the staff of the Secretariat under section 15 of the Act, the Chief Executive Officer shall appoint a selection panel.

(2) The selection panel shall consist of -

- (a) the Chief Executive Officer, who shall be the Chairperson of the selection panel;
- (b) the Deputy Chief Executive Officer;
- (c) any other two senior members of staff of the Secretariat who shall be appointed by the Chief Executive Officer;
- (d) the secretary, appointed by the Chief Executive Officer from staff of the Secretariat, whose sole responsibility shall be to record proceedings of the selection panel;
- (e) where Secretariat has not yet appointed its own staff, the Chief Executive Officer in consultation with the Chairperson may request the Government Secretary to nominate two senior officers from the Public Service to form part of the selection panel to appoint two senior members of staff of the Secretariat and the secretary.

(3) Where a member of the selection panel is a sibling or a close related relative of an interviewee or a member has any other form of a conflict of interest, the member shall disclose it to the Authority and the members of the selection panel, and he shall be barred from participating in the selection process.

(4) Where there is a conflict of interest referred to in sub-regulation (3), the Chief Executive Officer shall appoint any other person with relevant skills to be part of the selection panel.

(5) In the event that the Chief Executive Officer is the one who has conflict of interest then the Deputy Chief Executive Officer shall appoint any other person with relevant skills to be part of the selection panel.

(6) Where both the Chief Executive Officer and Deputy Chief Executive Officer have a conflict of interest then the Chairperson of the Authority shall appoint their replacements to be part of the selection panel.

Observers

25. The selection panel may invite any person with relevant skills or representative from an institution whether local, regional or international to come and observe the selection process.

***Ad hoc* observer committee of the recruitment process**

26. (1) The Authority shall elect an *ad hoc* observer committee of six members to observe the recruitment process of the Secretariat.

(2) The composition of the *ad hoc* observer committee shall, to the extent possible, reflect the proportionality and inclusivity of the membership of the sectors that constitute the Authority.

(3) The *ad hoc* observer committee shall be chaired by the Deputy Chairperson of the Authority who will be an *ex-officio* member of the *ad hoc* committee.

(4) The *ad hoc* observer committee shall observe the interview process and sign-off, on behalf of the Authority, a candidate that the staff selection panel shall identify.

Assessment of applications

27. (1) The staff selection panel assesses the applications in accordance with the following guidelines and processes -

- (a) an application shall be assessed for completeness;
- (b) three candidates who meet the requirements shall be short-listed;
- (c) shortlisted applicants shall be invited for an interview, and the nature of the interview shall be determined by the nature of the job profile;

- (d) reference checks shall be conducted for candidates selected for recruitment;
- (e) applicants of senior management positions or any other position which the Chief Executive Officer may consider to be accompanied by security clearance; and
- (f) successful applicants shall be notified in writing and a job offer shall be made.

Interviews and duration

28. The staff selection panel shall, within fifteen working days, except where special circumstances exist, following the closing date for the applications -

- (a) convene a meeting to consider applications and interview candidates;
- (b) shortlist, from the applications, three candidates eligible for interview;
- (c) interview, evaluate and assess the shortlisted eligible candidates; and
- (d) decide on a candidate that best meets the general criteria and requirements for the advertised position.

Assistance to the staff selection panel

29. The Chief Executive officer may, with the approval of the Chairperson of the Authority, engage the services of an expert in executing its functions in respect of the staff of selection panel.

Quorum of the staff selection panel

30. The quorum for meetings of the staff selection panel shall be two members.

Reporting and consideration of the report

31. (1) The staff selection panel shall submit a report, within five working days following the completion of the interviews, to the *ad hoc* committee for approval to engage the preferred candidate.

(2) The report shall, among others, contain a procedure and criteria used in the selection process, a shortlist of three names for each position and the name of a preferred candidate and qualifications of each candidate.

(3) The *ad hoc* committee may not accept the report of the staff selection panel, if it considers that the -

(a) process was unduly conducted; or

(b) report does not have sufficient information to allow them to appreciate how the decision was made.

(4) In the event that the *ad hoc* committee refuses to accept the report of the staff selection panel, the *ad hoc* committee shall revert the report back to the staff selection panel for re-consideration after which the report shall be re-submitted within a period of five working days.

(5) Where the *ad hoc* committee accepts the report of the staff selection panel, the *ad hoc* committee shall submit the report to the Authority in a plenary meeting for endorsement within a period of five working days of accepting the report.

(6) The quorum for the *ad hoc* committee shall be five members, including the Deputy Chairperson of the Authority.

Confidentiality

32. The staff selection panel shall maintain highest standard of professionalism and confidentiality in handling all matters before it.

Medical examination

33. (1) An employee of the Authority shall be required to undergo medical examination, at the employee's own expense and that employee shall produce a

medical fitness certificate to the Chief Executive Officer from a recognised and registered medical practitioner before engagement.

(2) An HIV test shall not be required as a criteria for employment and an applicant who is HIV positive shall not be discriminated against as a result of his HIV status.

Letter of offer

34. (1) A successful candidate shall be notified and a job offer made, in writing, by the Chief Executive Officer within one week from the date the decision is made.

(2) The job offer shall indicate the nature of appointment, salary, scale and other benefits if any, and shall make reference to the conditions of service.

(3) A potential employee intending to accept an offer of employment shall do so in writing.

(4) An employee shall, on appointment, fill in all proper employment forms and take oath of secrecy to the Authority pursuant to Schedule II of the Act.

Employment contract

35. (1) An employee of the Authority shall be required to sign an employment contract stipulating the conditions of employment and associated benefits.

(2) The maximum contract period for any contract of employment of an employee of the Authority shall not exceed a period of one year, but may be extended in accordance with the Act.

(3) The Chief Executive Officer, in consultation with the Chairperson, may engage casual workers for a period of up to one month and they shall be required to sign a simple formal contract with Authority.

(4) The remuneration of casual workers shall be as may be determined by the Minister in consultation with the Minister responsible for finance.

- (5) The Chief Executive Officer may -
- (a) engage volunteer workers who shall be required to enter into a short-term employment contract outlining the nature of voluntary services and the obligations of the Authority to such employees; and
 - (b) decide on such honorarium as may be payable to such employees in order to meet their basic needs, with the approval of the Authority and in consultation with the Minister and the Minister responsible for finance.

(6) The volunteer work shall be considered for the non-established positions within the Authority for a maximum period of three months, for the purpose of addressing the backlog or a temporary requirement of any nature.

(7) An employee engaged on a temporary basis shall be required to sign a simple contract of employment.

(8) Seconded personnel or employees, on a special assignment from the Government, shall be subject to the employment terms and conditions of the Authority during the time of secondment or special assignment.

Performance appraisal

36. (1) Employment with the Authority is performance-based and all staff of the Secretariat shall be subject to performance appraisal based on a criteria approved by the Authority.

(2) The Chief Executive Officer shall enter into a performance contract with the Chairperson.

(3) All the other staff of the Secretariat shall enter into a performance contract with Chief Executive Officer.

(4) All senior and middle management staff shall prepare annual work plans aligned to their respective section programmes and also to the Authority's action or business plan.

(5) Performance appraisals shall be conducted quarterly, and in the fol-

lowing manner -

- (a) the Chairperson shall conduct a performance appraisal of the Chief Executive Officer;
- (b) the Chief Executive Officer shall conduct a performance appraisal of the Deputy Chief Executive Officer and the Reforms Advisers;
- (c) the Deputy Chief Executive Officer shall conduct performance appraisals of other senior and middle management staff, and the senior and middle management staff shall appraise the staff below them in ranks; and
- (d) a member of staff of the Secretariat shall be oriented on the performance appraisal process and tools.

Poor performance management

37. In the event of poor performance by an employee -

- (a) the management shall provide systematic remedial or developmental support to assist an employee to improve his performance;
- (b) if after management intervention, on an employee's work, the performance remains unsatisfactory, a disciplinary action based on poor work performance may be taken against such an employee; and
- (c) in taking disciplinary action against an employee, a fair procedure based on the disciplinary policy and code of conduct shall be followed.

Probation

38. (1) All employees, other than temporary employees or casual labourers, shall serve a three months' probation period from the date of taking up the appointment.

- (2) A supervisor of a probationer shall ensure that the probationer -
 - (a) knows the performance and other requirements as pre-requisites of confirmation for employment; and
 - (b) receives written feedback on his performance and compliance with other requirement after every two weeks.
- (3) The probationer shall be informed whether he has satisfactorily completed the probation period, one week prior to the expiry of the probation period.
- (4) Where the probationer has not performed satisfactorily during the probation period, his contract shall be terminated on a one week notice.
- (5) During the probation period, the probationer shall be entitled to benefits outlined in the contract.

Staff management and other policies

39. The Authority shall have power to adopt, through a resolution of the plenary -
- (a) human resource manual;
 - (b) disciplinary code;
 - (c) transport policy;
 - (d) finance manual; and
 - (e) other policy and instrument that will enable the efficient and effective running of the Authority including the management of staff.

DATED:

**PROFESSOR NQOSA LEUTA MAHAO
MINISTER OF JUSTICE AND LAW**

NOTE

1. Act No. 4 of 2019
2. Act No. 11 of 2005
3. L.N. No. 78 of 2008
4. Act No. 12 of 2011
5. L.N. No. 21 of 2014 as amended by L.N. No. 73 of 2014

SCHEDULE

(Regulation 7(2)(a))

SUBPOENA

To
of (Physical Address)

You are ordered to appear in person before the Authority to give evidence on theday ofat(time and venue) to provide the Authority with information.

LEGAL NOTICE NO. 124 OF 2020

Legal Aid (Amendment) Regulations, 2020

In exercise of the powers conferred on me by section 14 of the Legal Aid Act, 1978¹, I,

NQOSA LEUTA MAHAO

Minister responsible for justice and law make the following regulations -

Citation and commencement

1. These regulations may be cited as the Legal Aid (Amendment) Regulations, 2020 and shall come into operation on the date of publication in the Gazette.

Amendment of Schedule II

2. Schedule II of Legal Aid Regulations, 1979 (in these regulations referred to as the “principal regulations”) is amended by deleting items 1 and 2 and substituting the following -

“(1) A person who earns from M0.00 to 3000.00 per month shall contribute M600.00.

(2) A person who earns from M3000.00 to M6000.00 shall contribute M1000.00”.

Amendment of Schedule III

3. Schedule III of the principal regulations is amended by deleting sub-items (a), (b) and (c) and substituting the following -

“(a) A minimum fee for a criminal case in the Magistrate Court is M6,500.00;

(b) A minimum fee for a criminal case in the High Court is M8,000.00; and

- (c) A maximum fee for a criminal case in the Court of Appeal is M10,000.00”.

Amendment of Schedule III B

4. Schedule IIIB of the principal regulations is amended by deleting items 2(a), (b) and (c) and substituting the following -

- “ (a) A minimum fee for a civil case in the Magistrate Court is M6,500.00;
- (b) A minimum fee for civil case in the High Court is M10,000.00;
- (c) A minimum fee for a civil case in the High Court of Appeal is 12,500.00”.

DATED:

**PROFESSOR NQOSA LEUTA MAHAO
MINISTER OF JUSTICE AND LAW**

NOTE

1. Act No. 19 of 1978
2. L.N. No. 32 of 1979 as amended by L.N. No. 104 of 2010

