

# LESOTHO Government Gazette EXTRAORDINARY

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## ACT NO. 10 OF 1995

**EDUCATION ACT 1995**

**An Act to consolidate all the enactments relating to education and to provide for matters incidental thereto.**

**Enacted by the Parliament of Lesotho**

**Part I Preliminary*****Short title and commencement***

1. This Act may be cited as the Education Act 1995 and shall come into operation on the date of its publication in the Gazette.

***Interpretation***

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

“Adjudicator” means the Adjudicator appointed under section 70;

“appointing authority” in relation to a teacher means the Commission in the case where the teacher is employed by the Commission or, in the case where a teacher is employed by an Educational Secretary or Supervisor that Educational Secretary or Supervisor or proprietor in the case the of a private school;

“Commission” means the Teaching Service Commission established under section 144 of the Constitution of Lesotho;

“church” means any religious body which carries out educational work in a school as may be approved by the Minister in accordance with this Act;

“Designated teachers’ association” means an association designated under Section 75;

“Educational Secretary” means a person appointed as such by a church in terms of section 24;

“Handycapped” means physically or mentally disabled or both including sensory disabilities whether singular or multiple;

“management committee” means a management committee referred to in this Act;

“Minister” means the Minister responsible for education;

“parent” includes guardians;

“post-primary school” means a secondary school, a high school or a technical and vocational school;

“principal” means a teacher in charge of a school;

“Principal Secretary” means the Principal Secretary in the Ministry responsible for education;

“proper authority” means a person or authority who, under this act, has power to direct a teacher in the performance of his duties;

“proprietor” in relation to a school means any person, church, society or corporation by whom or by which a school is established or to whom or to which an established school is transferred;

“school” means an institution which provides pre-primary, primary or post primary education but does not include,

- (a) any institution or organisation which provides education which is wholly of a religious character;
- (b) any institution owned or maintained by a religious body for the purpose of training persons for the ordained ministry or for admission to a religious order; or
- (c) any training institution owned by Government, a Ministry or Government Department;

“Supervisor” means a supervisor of a Government school;

“teacher” means a person employed in a school for purposes of instruction either on a full time or part time basis and who possesses qualifications prescribed by the Minister under section 33.

“Teaching Service” means the service established under section 144 of the Constitution;

### ***Purposes and objectives of this Act***

3. (1) It shall be the duty of every person concerned with the administration of this Act to promote the education of the people of Lesotho, and in particular, but without prejudice to the generality of the foregoing to ensure that, as soon as circumstances permit,
- (a) every child is provided with opportunities and facilities to enable him to develop physically, mentally, morally, spiritually and socially in a healthy, normal manner and in conditions of freedom and dignity;
  - (b) a child who is physically and mentally handicapped is given the special treatment, education and care required by his condition;

(c) the best interests of the child shall be the guiding principles of those responsible for the education and guidance of the child.

(2) It shall be the duty of,

(a) a parent of a child of school going age to cause that child to receive full time education suitable to his age, ability and aptitude by regular attendance at school or otherwise;

(b) every person concerned with the education of a child,

(i) to ensure that the child is protected from practices which may foster racial or any other form of discrimination or prejudice; and

(ii) to provide conditions which foster tolerance, friendship amongst people, peace and universal brotherhood.

### ***Classification of schools***

4. The Minister shall classify schools according to the following categories:

(a) Government schools which schools are owned by the Government;

(b) church schools which are schools owned by the churches;

(c) community schools which are schools owned by the community;

(d) private schools which are schools owned by an individual person, group of persons or organisations and not funded by the Government.

## Part II Registration of Schools

### *Schools to be registered*

5. (1) Every school shall be registered in accordance with this Act and no person shall operate a school unless it is so registered.

(2) If a school provides evening instruction in addition to other education, it shall be deemed to be a separate school in respect of the evening instructions and such separate school shall also be registered.

(3) The Minister shall register schools according to the following categories:

- (a) pre-primary schools which provide up to 3 years of early childhood education;
- (b) primary school which provide up to 7 years of primary education;
- (c) secondary schools which provide 3 years of post-primary education;
- (d) high school which provide 5 to 7 years of post-primary education; and
- (e) technical and vocational schools.

(4) The Minister shall,

- (a) regulate the number of pupils to be admitted;
- (b) regulate the number of the teaching staff;
- (c) prescribe the subjects or curriculum to be provided, and

the syllabus to be followed in respect of such subjects;

- (d) prescribe the type of fees which the school may charge from parents including fees that should be rendered to the Ministry responsible for Education for specific services that are provided by such Ministry.

at any school registered under this Act.

(5) A person who contravenes the provisions of subsection (1) or (2) commits an offence and is liable on conviction,

- (a) in the case of a natural person - to a fine not exceeding M3,000 or imprisonment for a period not exceeding 3 years or to both;
- (b) in the case of an educational society, church, society, corporation or board - to a fine not exceeding M 10,000.

### ***Opening of new schools***

6. (1) No person shall open a new school or add new classes to an existing school unless the opening of the new school or addition of the new classes has been approved by the Minister and registered in accordance with the provisions of this Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction,

- (a) in the case of a natural person - to a fine not exceeding M2,000 or imprisonment for a period not exceeding 2 years or to both;
- (b) in the case of an educational society, church, society, corporation or board to a fine not exceeding M10,000.

### ***Applications***

7. A person who wishes to,
- (a) open a new school;
  - (b) upgrade or downgrade an existing school;
  - (c) change the form of school;
  - (d) add new classes to an existing school; or
  - (e) transfer a school site,

shall apply to the Minister.

### ***Registration***

8. On receiving an application in accordance with section 7, the Minister shall make such inquiry as he considers necessary and shall determine the application by,
- (a) registering the school in respect of which the application was made;
  - (b) approving the upgrading, downgrading, change of form of school, transfer of a school site or addition of new classes to an existing school, as the case may be;

- (c) refusing under section 9 to register the school.
- (2) The Minister shall communicate in writing, his determination of the application to the applicant.

### ***Grounds for refusal to register school***

9. The Minister may refuse to register a school if it appears to him,
- (a) that there would be any danger to persons using the proposed school premises, whether arising inside or outside the premises;
  - (b) that the proposed premises are or are likely to be unsuitable for use for the purposes of a school;
  - (c) that any provision of this Act is being or will be contravened in respect of the school;
  - (d) that the qualifications and experience of the proposed teachers are not adequate to ensure the satisfactory operation **of** the school; or
  - (e) that adequate educational facilities already exist in the area in which it is proposed to operate the school.

### ***Certificate of registration***

- 10.(1) On registering a school, the Minister shall issue to the proprietor a certificate of registration in the prescribed form.
- (2) The proprietor shall display a copy of the certificate issued by the Minister under subsection (1) in a conspicuous place in the premises specified in the certificate
- (3) While a Minister registers a school and issues a certificate of registration to the proprietor under subsection

(1) he shall cause the particulars of such registration to be published in the Gazette.

(4) The Minister shall issue the certificate of registration to the proprietor of any school that is currently functioning and has been registered with the Ministry responsible for education prior to the commencement of this act and shall cause to be published in the Gazette a list of such schools.

(5) The Minister shall cause to be published in the Gazette at the end of each year an updated list of schools registered with the Ministry responsible for education under this Act.

### ***Premises in which schools may operate***

11. (1) No person shall operate a school or add new classes to an existing school in any premises other than the premises specified in the certificate of registration

(2) No teacher shall teach in any premises other than the premises specified in the certificate of registration of the school in which such teacher is employed.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction,

(a) in the case of a natural person - to a fine not exceeding M2,000 or imprisonment for a period not exceeding 2 years or to both;

(b) in the case of an educational society, church, society, corporation or board – to a fine not exceeding M 10,000.

### ***Grounds for withdrawal of registration of a school***

12. (1) The Minister may withdraw the registration of a school,  
(a) on any ground specified in paragraphs (a),  
(b) or (c) of section 9 on which he would  
have been entitled to refuse registration of

the school, whether or not such ground existed at the time when the school was registered:

- (b) if the proprietor has committed an offence against this Act subsequent to the registration of the school;
- (c) if it appears to the Minister that the proprietor is not managing the school satisfactorily or that the education of the pupils is not being promoted in a proper manner;
- (d) if the school is opened contrary to the provisions of this Act;
- (e) if the school is conducted in a manner detrimental to the interests of peace, order and good government;
- (f) if the school is conducted in a manner detrimental to the physical, mental or moral welfare of pupils;
- (g) where a school remains closed on a continuous period of six months including school holidays;
- (h) where it is economically not viable for the Government and the community to maintain such a school; and
- (i) where the proprietor has applied for removal of the name of his school from the register and the reasons adduced satisfy the Minister.

(1A) The Minister may, except in the case of paragraph (i) of subsection (1), cause to be served upon the proprietor of a school, a notice stating full particulars of one or more of the reasons specified under (1) for the removal of the name of such school from the register and any measures to be taken by such

proprietor to remedy such conditions within the time specified in the notice.

(1B) Where measures required under subsection (1A) are not taken within the time specified in such notice, the Minister shall, in the public interest by a notice published in a gazette, remove the name of such school from the register.

(2) No proprietor shall re-open the school after the Minister has withdrawn his approval.

(3) The proprietor of a school in respect of which the Minister has withdrawn his approval under subsection (1) who fails to close the school within the time specified by the Minister or who reopens the school without the written approval of the Minister commits an offence and is liable on conviction to a fine not exceeding M2,000.

### ***Closing of a school temporarily***

13.(1) The proprietor shall report to the Minister if the school is closed for any reason other than on school holidays.

(2) Where an officer appointed under section 14 reports to the Principal Secretary: -

(a) that the sanitary arrangements at a school are inadequate and it is a health hazard to the pupils and staff of the school; or

(b) that an emergency situation has arisen due to a natural disaster or otherwise, where the lives of the pupils and the staff of such school are endangered,

The Principal Secretary may, having regard to such report, direct the appropriate authority that the school be closed temporarily until such time measuring are taken to remedy such condition or adequate steps are taken, to normalize the situation.

(3) Where a school is to be closed temporarily for any other reason, the appropriate authority shall, before such closure, obtain prior approval from the Principal Secretary through the District Education Officer.

### ***Inspection of schools***

14. (1) The Minister may appoint officers of the Ministry of Education to inspect school.
- (2) In order to facilitate inspections under subsection (1) -
- (a) the proprietor or any person who for the time being is in charge of a school allow offices appointed under subsection (1) to enter and inspect the school premises at any reasonable time; and
  - (b) the principal shall produce any books, records or registers kept in connection with the school and furnish any information the officers may demand with regard to the care and tuition of pupils, the names and qualifications of the staff or any other relevant matter
- (3) The officer appointed under subsection (1) shall be issued with an identification card which may be produced on demand where necessary.
- (4) Where, in the course of an inspection, an officer appointed under subsection (1), discovers a breach of discipline committed by a teacher as set out in section 48, such officer may recommend in writing to the appointing authority that disciplinary action be taken against such teacher and the appointing authority shall take appropriate action accordingly.
- (5) Any person who obstructs or resists any officer appointed under subsection (1), in the performance or exercise of any power or duty imposed or

conferred by or under this Act, is guilty of an offence and is liable on conviction to a fine not exceeding One Thousand Maloti or to imprisonment for a period not exceeding one year or both.

### ***Duties of a Principal***

- 14A. The principal shall –
- (a) be responsible for the discipline, organisation and day to day running of a school;
  - (b) be the chief accounting officer of the school and shall be responsible to the Management Committee or School Board for the control and use of school funds;
  - (c) maintain or cause to be maintained records of income and expenditure for the school;
  - (d) prepare an annual budget of the school and submit it to the Management Committee or School Board for its approval;
  - (e) submit at the end of each school year a financial statement of the school to the Management Committee or School Board for its approval;  
and
  - (f) perform any other duties as may be prescribed by the Minister or delegated to him by the School Board or the Management Committee.

### ***Principal Secretary to maintain register***

15. The Principal Secretary shall keep,
- (a) a record containing the name of every registered school
  - (b) a record containing the name and address of every member of the approved management committee;

- (c) ;
- (d) a record containing the name and address of every proprietor.

### ***Grants in aid***

16. (1) The Minister may, after consultation with the Minister responsible for finance, make to any proprietor a grant in aid from public funds for any educational purposes upon such conditions as the Minister may prescribe.

(2) The Minister may, after consultation with the Minister responsible for finance, withdraw the whole or part of the grant, if the proprietor does not fulfil the conditions, prescribed by the Minister.

## **Part III Management Committees of Schools**

### ***Management Committees of Primary Schools***

17. (1) Every primary school shall be managed by a management committee appointed by the proprietor and approved by the Minister.

(2) Each management committee shall be responsible for a maximum of eight schools which belongs to one proprietor.

(3) Each management committee shall consist of the following members elected from various Advisory School Committees:

- (a) two members selected by the representatives of the proprietor, one of whom shall be Chairman;
- (b) three members selected by representatives of parents, one of whom shall be Vice-chairman;

- (c) teacher elected by representatives of teachers;
  - (d) the principal elected by the principals of the schools under one Management Committee who shall be the secretary;
  - (e) one representative of chiefs under whose jurisdiction the eight schools which belong to one proprietor fall.
- (3A) Notwithstanding subsection (3) where there are not advisory school committees in the circumstances set out in section 19 (1) the Management Committee of such a school shall consist of –
- (a) two representatives of a proprietor, one of whom shall be Chairman;
  - (b) three members of the community served by the school, who shall be elected by parents of pupils admitted in that school, one of whom shall be Vice-chairman;
  - (c) one representative of teachers, who shall be elected by teachers who teach in that school;
  - (d) a chief of the area where the school is situated or his representative;
  - (e) the principal of the relevant school who shall be the Secretary of the Management Committee.

(4) The Minister may in writing withdraw his approval of the management committee or of a member if in his opinion the management committee or if a member fails to carry out its or his functions efficiently.

(5) A member of the management committee whose approval has been withdrawn under subsection (4) shall cease to be a member of such committee and staff not become a

member of any management committee without the written approval of the Minister.

(6) A member of the management committee holds office for a period of three years, and is eligible for reappointment.

(7) The management committee shall meet at least four times a year.

(8) The Chairman shall preside at all meetings of the management committee and, in his absence, the Vice-chairman shall preside.

(9) The decisions of the management committee shall be by the majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(10) Five members of the management committee shall form a quorum.

### ***Responsibility of the Management Committee***

18. The management committee shall,

- (a) supervise the schools for which it has been constituted;
- (b) be responsible for the management and for the proper and efficient running of the schools under its jurisdiction;
- (c) Recommend to the appointing authority, discipline, transfer, or removal from office of a teacher;
- (d) on the advice of the District Education Officer, recommend to the appointing authority the promotion or demotion of a teacher;

- (e) submit at the end of each school year the financial statement of accounts of the school to the proprietor and parents;
- (f) submit to the Principal Secretary a financial statement or statement of accounts of the school when he requires.

### ***Advisory School Committees of Primary Schools***

19. (1) There shall be an Advisory School Committee for every primary school, except where a proprietor has only one primary school in an area.

(2) Each Advisory School Committee shall consist of the following members appointed by the proprietor:

- (a) two representatives of the proprietor;
- (b) one representative of teachers of the relevant school who shall be the secretary;
- (c) four members of the community served by the school who shall be elected by parents of pupils admitted in that school;
- (d) a chief of the area where the school is situated or his representative;
- (e) the principal of the relevant school.

(3) The appointment of members of the Advisory School Committee shall be subject to the approval of the Minister.

(4) A member of the Advisory School Committee (other than a member referred to in paragraph (e)) holds office for a period of three years, and is eligible for re-appointment.

(5) The Advisory School Committee shall meet at least eight times a year.

(6) The Chairman shall preside at all meetings of the Advisory School Committee and, in his absence, the Vice-Chairman shall preside.

(7) The decision of the Advisory School Committee shall be by the majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(8) Five members of the Advisory School Committee shall form a quorum.

### ***Election of Chairman and Vice-chairman***

20. The members of the Advisory School Committee shall elect both the chairman and vice-chairman of the Advisory School Committee from members referred to in paragraphs (2)(a), (c) or (d) of section 19.

### ***Function of the Advisory School Committee***

21. The function of the Advisory School Committee is to advise the management committee on all matters relating to education in the relevant school.

### ***School Boards of post-primary schools***

22. (1) Every post-primary school shall be managed by a School Board appointed by the proprietor and approved by the Minister.

(2)

(3) The School Board shall consist of,

(a) two representatives of the proprietor, one of whom shall be Chairman;

(b) three members of the community served by the school, who shall be elected by

- parents of pupils admitted in that school, one of whom shall be Vice-chairman;
- (c) one representative of teachers, who shall be elected by teachers who teach in that school;
  - (d) a chief of the area where the school is situated or his representative;
  - (e) a principal of the relevant school who shall be the secretary of the School Board.
- (4) The Minister may in writing withdraw his approval of the School Board or of a member if in his opinion the School Board or a member fails to carry out its or his functions efficiently.
- (4A) A member of a School Board whose approval has been withdrawn under subsection (4) shall cease to be a member of such board and shall not become any School Board without the written approval of the Minister.
- (5) A member of the School Board holds office for a period of three years and is eligible for reappointment.
- (6) The School Board shall meet at least four times a year.
- (7) The Chairman shall preside at all meetings of the School Board and, in his absence, the Vice-chairman shall preside.
- (8) The decisions of the School Board shall be that of the majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.
- (9) Four members of the School Board shall form a quorum.

### ***Responsibility of the School Board***

23. The School Board shall,
- (a) supervise the school for which it has been constituted;

- (b) be responsible for the management and for the proper and efficient running of the school;
- (c) recommend to the appointing authority the appointment, discipline, transfer or removal from office of a teacher;
- (d) on the advice of the District Education Officer, the appointing authority the promotion or demotion of a teacher.
- (e) Submit at the end of each school year an audited statement of accounts of the school to the proprietor and Principal Secretary.

### **Educational Secretaries**

24.(1) A church that is a proprietor shall, subject to the approval of the Minister, appoint a person resident in Lesotho to be an Educational Secretary of that church.

(2) The Minister may withdraw his approval if, in his opinion, an Educational Secretary does not carry out his work satisfactorily and such person such cease to function as an Educational Secretary thereafter and shall not be eligible for reappointment without a written approval of the Minister.

(3) The Educational Secretary shall,

- (a) organise, co-ordinate and supervise the educational work of the proprietor that appointed him;
  - (b) liaise with the Ministry responsible for education on matters of management of schools; and
  - (c) perform such other duties as may be assigned to him by the Minister.
- (4) Subject to subsection (5), no Educational Secretary shall be appointed to any committee established under this

Act unless he is the Educational Secretary of a proprietor with a minimum of 200 schools.

(5) No Educational Secretary or any member of his staff shall be a member of a management committee, School Board or Advisory School Committee.

### ***Supervisor of Government Schools***

25. (1) There shall be a Supervisor of Government schools.

(2) The Supervisor shall be appointed by the Minister on such terms and conditions as the Minister thinks fit.

(3) The Supervisor shall not be a member of the School Board, the Management Committee or Advisory School Committee.

(4) The functions of the Supervisor: are to supervise the administration of Government schools and other schools which the Minister may place under his charge.

## **Part IV Establishment of the National Curriculum Committee**

### ***Establishment of the National Curriculum Committee***

26. (1) There is established the National Curriculum Committee.

(2) The National Curriculum Committee shall consist of,

- (a) the Chief Education Officer (Curriculum) who shall be Chairman;
- (b) the Chief Education Officer (Secondary) who shall be Vice-chairman;

- (c) the Chief inspector (Headquarters);
  - (d) the Chief Inspector (Field Services);
  - (e) the Director of the National Curriculum Development Centre who shall be the Secretary;
  - (f) the Dean of the Faculty of Education of the National University of Lesotho;
  - (g) the Director of the Institute of Education;
  - (h) the Director of the National Teacher Training College;
  - (i) the Director of the Technical and Vocational Education and Training;
  - (j) the Registrar of the Examinations Council of Lesotho;
  - (k) one representative of a designated teachers' association;
  - (l) three Educational Secretaries representing school proprietors each of whom owns a minimum of 200 schools;
  - (m) the Principal of Lesotho Agricultural College;
  - (n) the Director of National Health Training Centre;
  - (o) the Chief Education Officer (Primary); and
  - (p) the Chief Education Officer (Tertiary).
- (3) A member referred to in paragraph (k) holds office for a period of three years and is eligible for reappointment.
- (4) If a member referred to in paragraph (k) fails to attend three consecutive meetings without giving reasons to the Chairman, the Minister may declare his office vacant and the nominating authority shall nominate a substitute to fill the vacancy.

### ***Meetings of National Curriculum Committee***

27. (1) The National Curriculum Committee shall meet at least twice during a calendar year and shall hold special meetings as the Chairman may determine or at a written request of not less than seven members.
- (2) The Chairman shall preside at all meetings of the National Curriculum Committee and in his absence the Vice chairman shall preside.
- (3) The decisions of the National Curriculum Committee shall be on the **majority votes of members present and** voting, and the person presiding shall have a deliberative and a casting vote in case of equality of votes of members.
- (4) Ten members of the National Curriculum Committee shall form a quorum at its meetings.

### ***Function of the National Curriculum Committee***

28. The function of the National Curriculum Committee is to review the curriculum for primary and post primary schools, and advise the Minister through the Principal Secretary.

### ***Standing Committee***

29. There shall be a Standing Committee of the National Curriculum Committee consisting of,
- (a) the Chairman of the National Curriculum Committee who shall be Chairman of the Standing Committee;
  - (b) the Chief Education Officer (Secondary) who shall be the Vice chairman;

- (c) the Director of the National Curriculum Development Centre who shall be secretary;
- (d) the Dean of the Faculty of Education of the National University of Lesotho;
- (e) one representative of a designated teachers' association; and
- (f) one representative of Educational Secretaries of school proprietors each of whom owns a minimum of 200 schools, nominated by Educational Secretaries.

### ***Functions of the Standing Committee***

30. The Standing Committee shall perform such functions as the National Curriculum Committee may, from time to time, assign to it.

## **Part V Teaching Service**

### ***Teaching Service***

31. (1) The Teaching Service established under section 144 of the Constitution shall be administered by the Teaching Service Department in the Ministry responsible for education.

(2) The Minister may, subject to the concurrence of the Minister responsible for Finance, create or abolish any office in the Teaching Service.

### ***Functions of the Teaching Service***

31A. The Teaching Service shall –

- (a) register as a teacher an applicant who satisfies the qualifications prescribed under section 33;

- (b) maintain and update a register of teachers;  
and
- (c) carryout such other functions as may be assigned to it from time to time, by the Minister.

### ***Entry into the Teaching Service***

32. (1) No person shall be employed as a teacher unless he has been registered with the Teaching Service.
- (2) No person shall employ as a teacher, any person who is not registered with the Teaching Service.
- (3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding M5,000.

### ***Qualifications***

33. The Minister shall prescribe educational qualifications required for a person to be registered with the Teaching Service.

### ***Application for registration***

34. (1) An application for registration as a teacher shall be made to the Chief Education Officer (Teaching Service) in such form as may be prescribed by the Minister.
- (2) On registering an applicant as a teacher the Chief Education Officer (Teaching Service) shall issue to the applicant a certificate of registration in a prescribed form.

***Registration of teachers***

35. The Chief Education Officer (Teaching Service) shall register as a teacher, any person who,

- (a) satisfies the qualifications as specified by the Minister under section 33; and
- (b) satisfies the Chief Education Officer (Teaching Service) that he is a person of good character.

***Medical examination***

36. The Chief Education Officer shall, before registering a person as a teacher, require such a person to undergo a medical examination, but a person who is employed as a teacher at the date of the commencement of this Act, shall not be required to undergo such medical examination.

***Persons not qualified***

37.(1) Notwithstanding section 35(a), the Chief Education Officer (Teaching Service) may with the approval of the minister register any person to teach notwithstanding that such person has not completed or has not successfully completed a course of training as a teacher or has not attended such a course.

(2) The Chief Education Officer (Teaching Service) may make the registration under subsection (1) subject to the condition that the teacher only teaches a particular subject or subjects or only teaches in a particular class or classes of school.

***Grounds for refusal to register a teacher***

38. The Chief Education Officer (Teaching Service) may refuse to register an applicant as a teacher if the applicant,
- (a) has a record of conduct or character not befitting a teacher;
  - (b) has been convicted **of** an offence and sentenced to imprisonment without an option of a fine;
  - (c) is medically unfit;
  - (d) does not possess the prescribed educational qualifications; or
  - (e) has attained the age of sixty-five years.

***Grounds for removal of names from register of teachers***

- 39.(1) The Chief Education Officer (Teaching Service) shall remove from the register of teachers the name of a teacher,
- (a) on any ground specified in section 38 which applies to the teacher, whether or not such ground existed at the time when he was registered as a teacher;
  - (b) who dies;
  - (c) who applies for removal from the register of teachers; or
  - (d) who has been dismissed under the provisions of this Act.
- (2) A person whose name has been removed from the register of teachers may apply to the Chief Education Officer (Teaching Service) for his name to be restored to the register.

(3) When an application is made to the Chief Education Officer (Teaching Service) under subsection (21, the Chief Education Officer (Teaching Service) may,

- (a) refuse the application;
- (b) grant the application; or
- (c) grant the application subject to conditions.

(4) Where the Chief Education Officer (Teaching Service) removes the name of a teacher from the register of teachers, he shall forthwith cause to be served upon that teacher and upon the proprietor of the school employing that teacher notice of such removal.

(5) As soon as a teacher has been served with a notice that his name has been removed from the register of teachers, he shall return to the Chief Education Officer (Teaching Service) his certificate of registration.

(6) A teacher whose name has been removed from the register of teachers, who fails to return his certificate of registration to the Chief Education Officer (Teaching Service) within 30 days of the notice being served upon him, commits an offence and is liable on conviction to a fine not exceeding M100.

## ***Appeals***

40. (1) A teacher who is aggrieved by a decision of the Chief Education Officer (Teaching Service) to remove his name from the register of teachers, may appeal to the Minister within 60 days of such decision being served on him.

(2) If as a result of an appeal the name of a teacher is restored to the register, the Chief Education Officer (Teaching Service) shall return the certificate surrendered to him under section 39 (5) and the teacher's name shall be deemed never to have been removed from the register, and if his employment has been terminated by reason of the removal of his name from the register, he shall forthwith be re-employed by his employer and paid by his employer his salary in full with effect from the date it ceased to be paid:

Provided that if as a result of an appeal the teacher's name is restored to the register subject to conditions, it shall be in the discretion of the employer whether he re-employs the teacher or pays him any salary in respect of the period when his name was off the register.

### ***Employment of teachers***

41. (1) Upon the coming into operation of this Act,

- (a) no person shall teach in any school unless he is registered with the Lesotho Teaching Service;
- (b) no proprietor shall allow a person to teach in any school unless such person is registered with the Lesotho Teaching Service.

(2) Notwithstanding the provisions of subsection (1), a teacher already in employment upon the coming into operation of this Act shall continue to teach for a period of 500 days or such other period as may be extended from time to time, by the Minister by notice published in the Gazette within which he shall register with the Lesotho Teaching Service in accordance with this Act.

(3) Any person or proprietor who or which contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding M1,000.

## **Part VI      Employment of Teachers**

### ***Employment, promotion etc. of a teacher***

42. (1) The power to employ a teacher and to promote, demote, transfer, discipline or remove from office such a teacher shall vest in the Commission.

(2) Subsection (1) shall not apply to a teacher whose salary is not paid by the Government.

### ***Employment of a teacher other than a teacher paid by the Government***

43. The power to employ, promote, demote, transfer, discipline or remove from office a teacher other than a teacher whose salary is paid by the Government shall vest in the relevant Educational Secretary or relevant Supervisor or relevant proprietor.

### ***Conditions of service of a teacher***

44. Notwithstanding any other law, the conditions of service, including leave and salary entitlement, of a teacher shall be prescribed by the Minister.

### ***General duties of teachers***

45. A teacher shall,

- (a) serve the school to which he is posted;
- (b) obey all lawful orders of persons who have lawful authority either within or over the school the teacher is posted; and
- (c) exercise the functions of his post impartially, efficiently and without delay.

### ***Whole time of teacher at disposal of school***

46. (1) A teacher shall place the whole of his time at the school to which he is posted.

(2) No teacher shall claim as of right additional remuneration in respect of any official duty or work any lawful authority may require him to perform.

### ***Private employment and private interests***

47. (1) No teacher shall, without the approval of the Minister, while the teacher is on leave or otherwise,

- (a) be employed in any other occupation outside the Lesotho Teaching Service;

or

- (b) accept any money, fee, gratuity or reward for services rendered otherwise than in the Lesotho Teaching Service.

(2) Nothing in this section shall be construed as preventing a teacher from,

- (a) becoming a member or shareholder only, of an incorporated company or of a company or society of persons registered under any law; or
- (b) receiving royal payment or fees for rendering professional services as may be prescribed by the minister.

(3) If the appointing authority has reason to believe that a teacher has any financial interest (including loans and shares) in any undertaking, being an interest which is in the opinion of the appointing authority incompatible with the true and proper discharge of his duties as a teacher, that teacher may be required to notify the appointing authority whether such an interest exists, and the appointing authority (whether such a notification has been received) may require that the teacher disposes of all interest of a nature specified by the appointing authority.

(4) The Minister may, by notice published in the Gazette, exempt a teacher or group of teachers and any kind of interest or employment, from the provisions of this section, and such an exemption may be absolute or may be subject to conditions specified in the notice. The Minister may at any time vary or cancel such an exemption.

## **Part VII      Conduct of Teachers**

### ***Breach of discipline***

48. A teacher commits a breach of discipline and is liable to disciplinary proceedings and to punishment specified in section 53 of this Act if he,

- (a) by any act or omission fails or refuses to comply with a provision of this Act;
- (b) by any act or omission fails or refuses to comply with a provision of any law which provides that such a failure or refusal by a teacher is a breach of discipline or misconduct;
- (c) discloses confidential information acquired in the course of his duties otherwise than in the discharge of such duties;
- (d) is convicted of any criminal offence;
- (e) uses his position as a teacher to further private or party political aims or to encourage disobedience or resistance to laws of Lesotho;
- (f) accepts appointment to any position in or connected with a committee or branch of any political party, or becomes a member of the of National Assembly or Senate;
- (g) conducts himself improperly in his official capacity or in any way that affects adversely the performance of his duties as a teacher or that brings the Lesotho Teaching Service or his school into disrepute;
- (h) absents himself from duty without reasonable excuse.

### ***Certified copy of the record***

49. If the breach of discipline that is alleged against the teacher is also a criminal offence for which he has been convicted, a certified copy of the record of his trial and conviction by the court is, upon the identification of the teacher as the person referred to in the record, sufficient proof of the commission by

him of that offence unless the conviction has been set aside by a higher court.

### ***Acquittal not a bar to disciplinary proceedings***

50. The acquittal or the conviction of a teacher by a court of law upon a discharge of a criminal offence shall not be a bar to disciplinary proceedings against a teacher under this Act on a charge of a breach of discipline.

### ***Interdiction***

51. The appointing authority may at any time before or after disciplinary proceedings against a teacher or before or after a teacher has been charged with criminal offence or with a breach of discipline, interdict him from performing his duties and the appointing authority, may at any time, cancel that interdiction whether or not the proceedings are continued.

### ***Emoluments on interdiction***

52. A teacher who has been interdicted in terms of this Act shall not be entitled to any emoluments for the period of his interdiction but the appointing authority, may in its discretion order payment to that teacher of the whole or portion of his emoluments.

### ***Punishment***

53.(1) The following punishments may be imposed on a teacher who has been found to have committed a breach of discipline under section 48,

- (a) caution or reprimand;
- (b) loss of an increment otherwise due;
- (c) a fine that may be recovered by deduction from his salary in instalments;
- (d) suspension of the payment of an increment until conditions are fulfilled or disciplinary, civil or criminal proceedings have been concluded;
- (e) loss of contract gratuity or suspension of the payment of contract gratuity until conditions are fulfilled or disciplinary, civil or criminal proceedings have been concluded;
- (f) removal from office by compulsory retirement;
- (g) removal to an office of lower rank;
- (h) and dismissal.

(2) Punishment may be imposed under more than one of the provisions of subsection (1) except in the case of dismissal or compulsory retirement or other termination of appointment.

(3) If a teacher has committed a breach of discipline in respect of absence from his office or from his official duties he may without delivery to him of a formal charge or any other proceedings prescribed in this Act,

- (a) be removed from office by way of dismissal or other termination of appointment if his absence from his office or official duties exceeds 20 consecutive working days;  
or
- (b) have his salary stopped for the period of his absence from his official duties or his office.

## ***Re-engagement***

54. No teacher who has been dismissed under the provisions of this Act shall be re-engaged into the Lesotho Teaching Service without the approval of the Minister.

## **Part VIII Retirement of teachers**

### ***Retirement of teachers on permanent and pensionable terms***

55. (1) Subject to the provisions of this section and the Teachers' Pensions Act 1994, a teacher shall retire from the Lesotho Teaching Service, and shall be so retired, on attaining the age of sixty-five years.

(2) A teacher may, on or at any time after attaining the age of fifty-five years subject to three months' notice being given to him be required to retire.

(3) Subject to subsection (2), a teacher may at any time before or after attaining the age of fifty-five years give written notification to the appointing authority, of his wish to be retired from the Lesotho Teaching Service, and if he gives the notification he shall,

- (a) if the notification is given at least six calendar months prior to the date on which he attains the said age, be so retired on attaining that age; or
- (b) if the notification is not given at least six calendar months prior to the date on which he attains the said age, be retired at the end

of six months from the date on which the notification is received.

(4) If, in the opinion of the appointing authority it is in the public interest to retain a teacher in his post beyond the age of sixty-five years, that teacher may, if he is willing, be so retained by the appointing authority for such period as the appointing authority may determine.

### ***Retirement on medical grounds***

56. The appointing authority may require a teacher to retire if the teacher is certified in writing by the Medical Board appointed by the Principal Secretary responsible for health to be suffering from an illness which prevents him from performing his duties efficiently and the illness is likely to be permanent.

## **Part IX Teaching Service Commission**

### ***Teaching Service Commission***

57. (1) The Minister shall appoint four members of the Commission, two of whom shall be nominated by heads of churches.

(2) The Minister shall designate one member (other than the member nominated by heads of churches) to be the Chairman and one of the members nominated by the heads of churches of Lesotho to be the Vice-chairman.

(3) If the office of Chairman of the Commission is vacant or if the person holding that office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until a person holding that office has resumed those functions, as the case may be, those functions shall be performed by a member of the Commission designated in that behalf by the Minister.

### ***Secretary to the Commission***

58. (1) The Chief Administrative Officer of the Lesotho Teaching Service shall be the Secretary of the Commission.

(2) The Secretary shall take minutes of the meetings of the Commission and keep its records.

### ***Functions of the Commission***

59. The functions of the Commission are to appoint, promote, demote, discipline, transfer and remove from office teachers whose salaries are paid by the Government.

### ***Meetings of the Commission***

60. (1) The Commission shall meet at such time and place as it deems expedient for the transaction of its business.

(2) The Chairman shall preside at every meeting of the Commission and, in his absence, the Vice-chairman shall preside.

(3) At every meeting of the Commission two members shall form a quorum.

(4) The Commission may determine its own procedure at its meetings.

(5) The person presiding shall, in addition to his deliberative vote as a member of the Commission, have a casting vote.

(6) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

### ***Report of the Commission***

61. (1) The Commission shall, as soon as practicable after the 31st day of December of each year, prepare a report on matters that have been dealt with by it during the preceding year, and also from time to time, prepare such special reports as are required by the Minister or seem desirable to the Commission.

(2) A report prepared by the Commission pursuant to subsection (1) shall be submitted to the Minister.

### ***Tenure of office***

62. (1) A member of the Commission holds office for a period of five years and is eligible for re-appointment or re nomination.

(2) Subject to this section, the office of a member of the Commission shall become vacant,

- (a) at the expiration of five years from the date of his appointment or nomination;
- (b) if he resigns his office by notice in writing addressed to the Minister;
- (c) if he becomes a public officer;
- (d) if he becomes a member of either House of Parliament or a member of a local authority;
- (e) if he takes an active part in politics or in political activities;
- (f) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(3) A member of the Commission may be removed from office by the Minister for inability to discharge the functions of his office, whether arising from illness or any other cause, or for misbehaviour or in the public interest.

(4) Where a member is absent or otherwise unable to perform his duties the Minister may appoint a person to act in that position for that period.

### ***Enforcement of attendance***

63. (1) The Commission may require any person to attend or give evidence before it concerning any matter which it may properly consider in the performance of its functions and may require the production by a person in attendance of any documents relating to any such matter.

(2) Any person,

- (a) other than a person who is notified to appear before the Commission **solely** in connection with his application for appointment as a teacher, who, without reasonable cause, fails to appear before the Commission when required to do so; or
- (b) who wilfully fails to produce any document in his possession when required to do so by the Commission under this section,

commits an offence and is liable on conviction to a fine not exceeding M2,000.

(3) Any person attending before the Commission at the request of the Commission, other than a person who is applying for appointment as a teacher, shall be entitled to be paid by the Commission the same allowance as a witness who appears before the High Court in criminal proceedings.

***Improper influence etc.***

64. (1) Any person who otherwise than in the course of his duty, directly or indirectly influences or attempts to influence any decision of the Commission commits an offence and is liable on conviction to a fine not exceeding M2,000 or to imprisonment for a period not exceeding 2 years, or both, but nothing in this subsection shall be deemed to make unlawful the giving of reference or testimonial to any applicant or candidate for any teaching position or the supplying of any information or assistance requested by the Commission.

(2) Any person who, in connection with the performance by the Commission of its functions, wilfully gives to the Commission any information which he knows to be false, or does not believe to be true, or which he knows to be false by reason of omission of any material particular commits an offence and is liable on conviction to a fine not exceeding M2,000 or to imprisonment for a period not exceeding 2 years or to both.

### ***Privileges of members***

65. A member of the Commission has in the performance of his duty **as** a member, the same protection and immunity as a judge of the High Court of Lesotho.

### ***Privileges of communications***

66. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between,

- (a) the Commission or any member or officer thereof and the Minister, the Public Service Commission, the Judicial Service Commission, or any member or officer thereof or a public officer;
- (b) any member or officer of the Commission and the Chairman of the Commission; or
- (c) members or officers of the Commission in the performance of, or in connection with the performance of the functions of the Commission, unless the Minister consents in writing to such production or disclosure.

### ***Divulgence of information***

67. (1) A member or officer of the Commission and any other person who, without the written permission of the Minister, knowingly publishes or disclose to any person, otherwise than in the performance of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission commits an offence and is liable on conviction to a fine not exceeding M2,000 or to imprisonment for a period not exceeding 2 years or both.

(2) Any person who knows of any information which to his knowledge has been disclosed in contravention of subsection (1) who publishes or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his official duty commits an offence and is liable on conviction to a fine not exceeding M2,000 or to imprisonment for a period not exceeding 2 years or to both.

### ***Consent to prosecution***

68. A prosecution in respect of an offence under section 64 or 67 shall not be instituted except with the consent of the Director of Public Prosecutions.

### ***Remuneration and allowances of members***

69. (1) The members of the Commission shall be paid such remuneration and allowances as the Minister may, after consultation with the Minister responsible for finance, determine.

(2) In addition to their salaries and allowances there shall be paid to the members of the Commission such gratuities

and allowances and there shall be granted to them such privileges in respect of leave of absence, transportation, passage and official quarters, as would have been paid or granted to them had they been public officers.

## **Part X      Adjudicator**

### ***Appointment of Adjudicator***

70.    (1) The Minister shall appoint an Adjudicator who shall be a person having legal experience.

      (2) The Adjudicator shall hold office for a period not exceeding five years.

      (3) The Adjudicator may be removed from office for misbehaviour or for inability to exercise the functions of his office whether arising from infirmity of body or mind or any other cause.

### ***Functions of Adjudicator***

71.    The functions of the Adjudicator are to hear and decide on cases referred to him for advice **by** the Commission.

## **Part XI      Joint Reference Committee**

### ***Establishment of the Joint Reference Committee***

72. (1) There is established a Joint Reference Committee which shall consist of,

- (a) the Chief Administrative Officer of the Lesotho Teaching Service who shall be the Chairman;
- (b) the Chief Education Officer (Secondary) who shall be Vice-Chairman;
- (c) The Dean of the Faculty of Education of the National University of Lesotho;
- (d) the Director of the National Teacher Training College;
- (e) three educational secretaries qualified to be members of a committee in accordance with section 22 of this Act, appointed by the Minister;
- (f) three representatives of teachers nominated by a designated teachers' association;
- (g) one supervisor nominated by the Minister;
- (h) the Director of Technical and Vocational Education and Training;
- (i) Chief Education Officer (Primary);
- (j) and Chief Education Officer (Tertiary).

(2) The Director of the Teaching Service Department shall be the Secretary of the Joint Reference Committee.

### ***Meetings of the Joint Reference Committee***

73. (1) The Joint Reference Committee shall meet at least twice a year.

(2) Every meeting of the Joint Reference Committee shall be presided over by the Chairman or, in his absence, the Vice-chairman.

(3) The decision of the Joint Reference Committee shall be that of the majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(4) The quorum of the Joint Reference Committee shall be the Chairman or Vice-chairman and at least six other members provided that no more than four of those members are members referred to in paragraphs (1) (e) and (f) of section 72.

(5) The Joint Reference Committee may regulate its own procedure at its meetings.

(6) Expenses incurred by members of the Joint Reference Committee in respect of travelling, meals and night rest on official duty shall be borne by the Ministry responsible for education.

### ***Functions of the Joint Reference Committee***

74. The functions of the Joint Reference Committee are to consider and make recommendations to the Minister through the Principal Secretary on,

- (a) terms and conditions of service and methods of ensuring improvements in general working conditions, productivity, and staff relations within the Lesotho Teaching Service;
- (b) professional standards, conduct and discipline within the Lesotho Teaching Service; ~furtherance of good relations between Government, teachers and school proprietors;
- (c) improvement of career structure for the Lesotho Teaching Service and criteria and procedure for promotion; questions relating to certificates; matters relating to salary scales and salary levels; and criteria for registration with the Lesotho Teaching Service;

## **Part XII      Miscellaneous**

### ***Representation of teachers***

75. (1) The Minister may designate a professional teachers association which may submit nominees to represent it on committees established under this Act.

(2) The teachers' association designated under subsection (1) shall be designated for a period of five years and shall be eligible for re-designation.

## ***Regulations***

76. The Minister may make regulations for carrying into effect the principles and provisions of this Act, and in particular but without prejudice to the generality of the foregoing, such regulations may,

- (a) prescribe the terms and conditions of service of teachers;
- (b) prescribe anything which is to be prescribed under this Act;
- (c) define roles of proprietors and the Government;
- (d) prescribe the forms to be used in carrying out the provisions of this Act.

## ***Consequential amendment***

77. Section 8 of the Teachers' Pensions Act 1994<sup>1</sup> is amended by deleting "Minister" wherever it occurs and substituting "the Teaching Service Commission".

## ***Validation of appointments of teachers***

78. (1) The Education Order 1992 is repealed.
- (2) Notwithstanding subsection (1), all subsidiary legislation made under the repealed enactments shall be deemed to have been made under this Act and shall continue in force, so far as the same may be rendered applicable by this Act, until revoked by regulations made under this Act.

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<sup>1</sup> Act No.4 of 1994

(3) Subject to section 41 all appointments made under the enactment repealed by this Act and subsisting at the date of the commencement of this Act shall be deemed to have been made under this Act.

(4) Any classification and registration of a school, appointment of teachers and other acts lawfully done under the provisions of the enactments repealed by section (1) in force immediately before the coming into force of this Act, shall be deemed to have been made under the provisions of this Act and shall continue to have effect accordingly.

(5) Any matter or proceedings pending in any court of law shall continue to be heard and determined notwithstanding the repeal of the above enactment.