

**LESOTHO  
GOVERNMENT GAZETTE  
EXTRAORDINARY**

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**ACT NO.5 OF 1998**

**Third Amendment to the Constitution Act 1998**

**An Act to amend the Constitution of Lesotho so as to provide for the change in name of the Police and in the title of the head of the National Security Service.**

**Enacted by the Parliament of Lesotho**

Short title and commencement

1. This Act may be cited as the Third Amendment to the Constitution Act 1997 and shall come into operation on the date of its publication in the Gazette.

Amendment of section 147 of the Constitution of Lesotho

2. Section 147 of the Constitution of Lesotho, hereinafter referred to as "the Constitution", is amended by deleting "Police Force" wherever it occurs and substituting "Police Service".

Amendment of section 147 of the Constitution of Lesotho

3. Section of the Constitution is amended by deleting "Director of the National Security Services" wherever it occurs and substituting "Director-General of the National Security Service".

**GOVERNMENT NOTICE NO. 18 OF 1998**

**EXPLANATORY MEMORANDUM TO THE**

**THIRD AMENDMENT TO THE CONSTITUTION BILL 1997**

**(CIRCULATED BY AUTHORITY OF THE HONOURABLE MINISTER OF**

**LAW AND CONSTITUTIONAL AFFAIRS MR. SEPHIRI MOTANYANE)**

**OUTLINE**

1. The purpose of this Bill is to amend the Constitutional of Lesotho to cater for the change in name of the Police and the change in title of the head of the National Security Service.
4. Clause 3 amends section 148 of the Constitution by changing the title of Director of National Security Service.

#### NOTES ON CLAUSES

##### Short title and commencement

2. Clauses 1 provides for the citation and commencement of the Bill. The Bill shall come into force on the date it is published in the Gazette.
3. Clauses 2 amends section 147 of the Constitution of Lesotho by changing the name of the Police Force to that of Police Service.

##### Amend of section 148 of the Constitution

4. Clauses 3 amends section 148 of the Constitution by changing the title of Director of National Security Service to that of Director-General of the National security service

#### ACT NO. 6 OF 1998

##### Subordinate Court (Amendment) Act 1998

##### An Act to amend the subordinate Courts Order 1988

##### Enacted by the Parliament of Lesotho

##### Short title and commencement

1. This Act may be cited as the Subordinate Courts (Amendment) Act 1998 and shall come into operation on the date of its publication in the Gazette.

##### Short title

2. 1) The title of the principal Law is amended by omitting "Order" and substituting "Act".
- 2) The Principal Law is amended by deleting "Order wherever occurring and substituting "Act".

##### Jurisdiction in respect of causes of action

3. Section 17 (1) of the principal Law is amended-

- a) In paragraph (a) (i) by deleting "M10, 000" and substituting "M25, 000".
- b) In paragraph (a) (ii) by deleting "M8, 000" and substituting "M20, 000".
- c) In paragraph (a) (iii) by deleting "M 7,000" substituting "M18,000";
- d) In paragraph (a) (iv) by deleting "M 6,000" and substituting "M15,000";
- e) In paragraph (a) (v) by deleting "M5, 000" and substituting "M10,000";
- f) In paragraph (b) i) by deleting "M10, 000" and substituting "M25,000";
- g) In paragraph (b) (ii) by deleting "M8, 000" and substituting "M20,000";
- h) In paragraph (b) (iii) by deleting "M7, 000" and substituting "M18,000";
- i) In paragraph (b) (vi) by deleting "M6, 000" and substituting "M15,000";
- j) In paragraph (b) (v) by deleting "M5, 000" and substituting "M10,000";

##### Jurisdiction in the matter of punishment

4. Section 61 of the principal Law is amended-

##### (a) In subsection (1),

- (i) By deleting paragraphs (a) to (f) and substituting the following paragraphs:

- a) A chief magistrate' court, a fine of M40,000 and imprisonment for a period of 20 years;
- b) A senior resident magistrate's court ,a fine of M 36,000 and imprisonment for a period of 18 years;
- c) A subordinate court of the First Class, a fine of M20,000 and imprisonment for a period of 10 years;
- d) A subordinate court of the Second Class, a fine of M16,000 and imprisonment for a period of 8 years; and
- e) A subordinate court of the Third Class, a fine of M12,000 and imprisonment for a period of 6 years; and

- (ii) By eleting the paragraph immediately above subsection (2);

- (b) In subsection (2) by deleting the words " or by both such imprisonment and such whipping"; and

- (c) By deleting subsection (4)

##### Jurisdiction in respect of punishment in remitted cases

5. Section 64 (1) of the principal Law is amended by deleting pagraphs (a) to (e) and substituting the following paragraphs:

- a) "A chief magistrate's court the maximum fine shall be M50,000; the maximum period of imprisonment shall be 25 years;
- b) A senior Resident Magistrate' court the maximum fine shall be M40,000;the maximum period of imprisonment shall be 20 years;
- c) A resident Magistrate's court : the maximum fine shall be M36,000: the maximum period of imprisonment shall be 18 years;

- d) A subordinate court of the First Class: the maximum fine shall be M30,000;the maximum period of imprisonment shall be 18 years;
- e) A subordinate court of the Second Class; the maximum fine shall be M20,000;the maximum period of imprisonment shall be 10 years”.
6. Section 71 of the principal Law is repealed.

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Note

**1. Order No. 9 of 1988**

**GOVERNMENT NOTICE NO.19 OF 1998**

**EXPLANATORY MEMORANDUM TO THE**

**SUBORDINATE COURTS (AMENDMENT) BILL 1997**

**(Circulated by the authority of the Minister responsible for justice and Human Rights, the Honourable sephiri Enoch Motanyane)**

**OUTLINE**

1. The purpose of the Bill is to provide for the enhancement of the jurisdiction of the Subordinate Courts in both Criminal and Civil Cases, hence facilities efficient and effective administration of justice and progressively decrease high numbers of cases field in the High Court.
2. The Bill is also intended to amend the Subordinate court Order No. 9 of 1988,in order to bring it in line with the 1993 Constitution of Lesotho and the international human rights instruments, ratified by the Government of the Kingdom of Lesotho.
3. Section 8(1) of the 1993 Constitution provides that no person shall be subjected to torture or to inhuman or degrading punishment or other treatment. The International Covenant on Civil and Political Rights (ICCPR) 1966, ratified by the government of Lesotho on 9th December 1992, provides in Article 7 that no one shall subjected t torture or to cruel, in human or degrading treatment or punishment. Article 5 of the African Charter on human and People’s Rights, which was testified by the Government of Lesotho on 9th April 1991, also provides that every individual shall have the right to the respect of dignity inherent in a human being and to the recognition of his legal status. It provides further that all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited. Corporal punishment is considered inhuman and degrading punishment and should be abolished.
4. Therefore in the light of the above it is imperative to repeal section 71 of the Subordinate Court Order No.9 of 1988, which permits corporal punishment.

**NOTES ON CLAUSES**

**Clause 1- Short title commencement**

1. This clause provides for the citation of the Subordinate Courts (Amendment) Act 1997 and for its commencement on a date of its publication in the gazette.

**Clause 3- Jurisdiction in respect of causes of action**

2. This clause provides for the monetary jurisdiction by various classes of magistrates in respect of civil matters. It sets a ceiling on the amount for the said various classes of magistrates.

**Clause 4-Jurisdiction in the matter of punishment**

3. This clause provides for punishment in respect of criminal matters, to be imposed by the Subordinate Court.

**Clause 5- Jurisdiction in respect of punishment**

4. This clause provides for punishment in remitted cases, where increase jurisdiction has been expressly given.

**ACT NO.7 OF 1998**

**Police Service Act 1998**

**ARRANGEMENT OF SECTIONS**

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ACT NO. 7 OF 1998

Police Service Act 1988

An act to make provision for the organization, administration and discipline of the police service and for connected purposes.

**Enacted by the Parliament of Lesotho.**

### **PART 1 –PRELIMINARY**

#### **Short title and commencement**

1. This Act may be cited as the Police Service Act 1998 and shall come into force on such date as the Ministry may: by notice in the Citizen, appoint and different dates may be appointed for different provision.

#### Interpretation

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

“Arms” shall have the same meaning as in the International Security ( Arms and Ammunition) Act 1966;

“Commissioner” means the Commissioner of Police appointed under section 5;

“the Constitution” means the Constitution of Lesotho;

“Codes officer” means a police officer appointed by virtue of special qualifications or skills;

“disciplinary hearing” means a hearing under section 44 or 45;

“disciplinary proceedings” means proceedings under Part V of this Act;

“district” has the meaning given to it by the Criminal Procedure and evidence Act,1981;

“financial year” means the year beginning on the 1st April and ending on 31st March the following year;

“member of the Police Service” means a person attested as a police officer under section 10;

“merit” means ability, qualifications, knowledge, skill and aptitude;

“minister” means the Minister of Home Affairs;

“offence against discipline” means an offence designated as such in regulations made under section 84;

“police officer” means a person appointed under section 7;

“the Police Service” means the Lesotho Mounted Police Service;

“regulations” means regulations made by the Minister under this Act;

“section” means a section of this Act;

“senior officer” means an officer of a rank designated as such in regulations made under section 84;

“subordinate court” has the meaning given to it by Subordinate Courts Order 1988.

### **PART 11-ORGANISATION**

#### Maintenance of the Police Authority

#### Establishment and functions of Police Authority

3. 1) there shall be a police Authority for Lesotho ,which shall be the Minister.

2) the Police Authority shall appoint a Director of Police and Sufficient other staff to enable him to carry out his functions under this Act.

3) Appointments under subsection (2) shall be made under the Public Service Act 1995.

4) The Police Authority shall maintain an efficient and effective police service for Lesotho.

5) The Police Authority shall exercise his powers under this Act in such manner and to such extent as appears to him to be best calculated to promote the efficiency and effectiveness of the police service.

#### General functions of police service

4. The police maintained under section 3 shall be called the Lesotho Mounted Police Service, and it shall be deployed in and throughout Lesotho to uphold the law, to preserve the peace, protects life and property, to detect and prevent crime, to apprehend offenders, bring offenders to justice, and for associated purposes.

#### Members of the Police Service

#### Appointment and removal of Commissioner

5. 1) The King, acting on the advice of the Prime Minister, shall appoint a Commissioner of Police.

2) The Commissioner shall be appointed on such terms and conditions as the king, acting on the advice of the Prime

Minister, may prescribe.

3) The King, acting on the advice of the Prime Minister, may require the Commissioner to retire in the interests of efficiency or effectiveness.

4) Before requiring the Commissioner to retire under subsection (3) the Prime Minister shall give the Commissioner the opportunity to make representations and shall consider any representations that he makes.

#### Appointment of Deputy Commissioner

6. The Police Authority shall, after consultation with the Commissioner, appoint a Deputy Commissioner who may exercise the full powers and duties of the Commissioner during any period of temporary absence or incapacity by the Commissioner.

#### Other members of the Police Service

7. In addition to the Commissioner and the Deputy Commissioner, the Police Service shall comprise such other police officers as may be appointed under this Act; not exceeding such total strength as may be prescribed by the Police Authority.

#### Appointment and promotions

8. 1) There shall be a Police Appointment and Promotion Board which shall be responsible for the appointment and promotion of senior officers, cadet officers, and such classes of civilians appointed under section 33 as the Commissioner may designate.

2) The members of the Board constituted under subsection (1) shall be the Commissioner, who shall be the chairman; a person nominated by the Police Authority and a person nominated by the Minister responsible for the

#### Public Service.

3) The Commissioner shall, subject to regulations made under this Act, be responsible for the appointment, and promotion of police officers, other than cadet officers, to any rank below that of senior officer.

4) Any person appointed as a member of the Police Service shall serve a probationary period of two years, or such longer period as the Commissioner may direct, before his appointment is made permanent.

5) The Commissioner may appoint a police officer to act in a rank senior to his substantive rank, and where the period of such acting appointment exceeds 28 days such officer shall, during acting appointment, receive salary at the scale applicable to the senior rank at such incremental level as the Commissioner may determine.

#### Absence of Commissioner and Deputy Commissioner

9. During any absence, incapacity or vacancy in the office of Commissioner and Deputy Commissioner, a senior officer authorized by the Police Authority may exercise all the powers and duties of the Commissioner.

#### Attestation

10. 1) Every member of the Police Service shall, on appointment, be attested as a police officer by making a declaration before the Commissioner in the form set out in Schedule 1.

2) Every person shall, before making the declaration required by subsection (1), answer truly any question put to him as to his previous service, career and employment and as to whether he has at any time been convicted of any offence punishable by the laws of Lesotho or the laws of any other country.

#### Resignation from the Police Service

11. A member of the Police Service may resign upon giving one month's notice in writing to the Commissioner and, on the expiration of his notice, or sooner if the Commissioner so directs, he shall cease to be a police officer.

#### Delegation

12. Any power conferred on the Commissioner by this Act, or any regulations made under this Act, may be exercised by any other member of the Police Service or any civilian appointed under section 33, to the extent that he has been authorized to exercise power by the Commissioner, or by this Act or regulations made under this Act.

## Accountability

### General functions of the Commissioner

13. 1) The Police Service shall, subject to the provisions of this Act and the general direction of the Police Authority, be under the command of the Commissioner and no member of the Police Service shall be subject to the command of any other person or authority.
- 2) The Commissioner may issue such Standing Orders for the general control and administration of the Police Service as he may deem necessary.
- 3) In discharging his functions under this Act the Commissioner shall have regard to the policing plan issued under section 16.

### Provision of information to the Police Authority

14. The Commissioner shall keep the Police Authority fully informed concerning matters of policy relating to the Police Service and shall furnish the Police Authority with such information as he may reasonably require in respect of any matter relating to the Police Service.

### Objectives for Policing

15. Before the beginning of each financial year the Police Authority shall, after consultation with the Commissioner, determine objectives for the policing of Lesotho for the year.

### Policing plan

16. 1) Before the beginning of each financial year the Police Authority shall issue a plan setting out the proposed arrangements for the policing of Lesotho during that year ("the policing plan").
- 2) The policing plan shall include a statement of the Police Authority's priorities for the year, of the financial resources expected to be available and of the proposed allocation of those resources, and shall give particulars of;
  - a) any objective determined by the Police Authority under section 15;
  - b) how those objectives will be met;
  - c) how the success in meeting those objectives is to be measured.
- 3) A draft of the policing plan shall be prepared by the Commissioner, after consultation with the public in accordance with arrangements made under section 23, and submitted by him to the Police Authority for consideration.
- 4) Before issuing the policing plan the Police Authority shall assemble and consult such persons as appear to him to be representative of the public and shall take into account any representations they may make.
- 5) A copy of the policing plan shall, within 15 days of being issued by the Police Authority, be laid before Parliament.

### Development plan

17. 1) The Commissioner shall compile and keep under review a Development Plan, which shall set out the strategic needs of the Police Service over a period of five years and propose reforms to achieve those needs.
- 2) When compiling or reviewing Development Plan the Commissioner shall have regard to the Policing plan and the views of the Police Authority.

### Annual report

18. 1) As soon as possible after the end of each financial year, the Commissioner shall prepare a report relating to the policing of Lesotho for that year.
- 2) A report prepared under subsection (1) shall include a full assessment of the extent to which the policing plan issued under section 16 has been carried out.
- 3) The Commissioner shall send the report to the Police Authority who shall arrange for it to be published in such manner as appears to it be appropriate.
- 4) Within 15 days of being sent to the Police Authority the Police Authority shall arrange for a copy of the report to be laid before Parliament.

### Reports by Commissioner to the Police Authority

19. 1) The police Authority may require the Commissioner to submit to him a report on such matters as may be specified in the requirement being matters connected with the policing of Lesotho.

2) A requirement under subsection (1) may specify whether the report should be given orally or in writing.

#### Inquiries

20. 1) The Police Authority may cause an enquiry to be laid into any, matter connected with the policing of Lesotho.  
2) The Police Authority shall appoint a person to chair the inquiry, on such terms and conditions as he may prescribe.

#### Inspector of Police

21. 1) The King, acting on the advice of the Prime Minister, shall appoint an Inspector of Police, on such terms and conditions as he may prescribe.  
2) Subsections (2) to (12) (except subsections (9) and (10) of section 136 of the Constitution shall apply to the Inspector of Police as they apply to a member of the Public Service Commission.  
3) The Inspector of Police shall, each year, inspect and report on the efficiency and effectiveness of the Police Service and the extent to which the policing plan for that year has been carried out.  
4) The Inspector of police shall have sufficient staff to enable him to effectively carry out its functions, and those staff shall be persons appointed or employed under to the Public Service Act, 1995.  
5) The Inspector of Police shall have sufficient staff to enable him to effectively carry out its functions, and those staff be persons appointed or employed under the PUBLIC Service Act, 1995.

#### Police Complaints Authority

22. 1) There shall be a Police Complaints Authority comprising a chairman and at least three other members.  
2) The member of the Police Complaints Authority shall be appointed by the Police Authority on such terms and conditions as he may prescribe.  
3) The Police Complaints Authority shall have responsibility for investigating and reporting to the Police Authority on any complaint referred to it by the Police Authority or the Commissioner, which is a complaint from a member of the public about the conduct of a member of the Police Service.  
4) The police Complaints Authority shall have sufficient staff to enable it effectively to carry out its functions, and those staff shall be persons appointed or employed under the Public Service Act, 1995.  
5) Subject to subsection (6), the Police Complaints Authority shall have the power to summon persons before it to give evidence or to produce documents and any person who fails to comply which such a summons shall be liable to a fine of M500.  
6) No summons shall be issued under subsection(5) where the Commissioner, having consulted the Police Authority, certifies that disclosure of the information sought would be against the public interest or would jeopardize the safety of any person.

#### Arrangement for obtaining the views of the public on policing

23. 1) The Commissioner shall make arrangements for obtaining the views of the public about matters concerning the policing of Lesotho and their co-operation with the police in the prevention of crime.  
2) The Commissioner shall submit to the Police Authority for approval the arrangements made this section and if it appears to the Police Authority that the arrangements are not adequate he may require the Commissioner to make new arrangements and submit them to it for approval.  
3) Nothing in this section shall be deemed to abrogate the custom whereby consultation takes the form of a Pitso.

### PART III-POWERS AND DUTIES

#### Police Officers

##### General duties of police officers

24. 1) It shall be the duty of every person attested as a police officer to serve the person of Lesotho in that office, diligently, impartially and ,with due regard to the Constitution to:

- a) Preserve the peace and maintain law and order;
- b) Prevent all offences against persons or property;
- c) Detect offences apprehend offenders and bring them to justice;

And, while he holds that office, to the best of his skill and knowledge, discharge all the duties of that office faithfully according to the law.

2) The Police Authority may authorized the Commissioner to issue to police officers such arms as he may prescribe and a police officer shall for the performance of his duties be entitled to carry any arms so issued.

Duty to comply with lawful orders

25. It shall be the duty of a police officer to comply with any lawful order of the Commissioner or any other competent officer.

#### Power and duties in respect of fire

26. It shall be the duty of a police officer to prevent any injury to persons or loss or damage to property by fire. In the event of a fire any police officer may:

- a) Enter any building, vehicle or other property without the consent of the owner;
  - b) Close any street or direct the removal of any person or property from any area;
  - c) Do all such things as may be necessary for the purposes of extinguishing or controlling any fire.
- 3) A police officer may call upon any person to assist in the extinguishing or control of a fire or to give assistance all the scene of a fire.
- 4) No action shall lie in any court of law against any police officer, of any loss or damage caused in exercising the powers under subsection (1) unless it is proved that such loss or damage was caused male fides.

#### Duties of confidentiality

27. Except as provided by this Act, or in the performance of his duties, the exercise of his functions, or when lawfully required to do so by a competent court, no police officer shall disclose to any person any information acquired by him in the course of his duties.

#### Private employment

28. No police officer shall, without the consent of the Commissioner, engage in any employment or business whatsoever other than in accordance with his duties under this Act.

Powers to serve summons, etc.

29. Every police officer shall be authorized to serve or execute any summons, warrant or process directed to him, and any such summons, warrant or process may be served or executed by any other police as if it had been directed to him.

#### Saving for other powers and duties

30. In addition to the provisions of this Act, every police officer shall have all the powers, and be subject to all duties, which are conferred upon his office by any other law or enactment.

#### Commissioner of Police.

##### Powers of Commissioner to remove police officers

31. 1) Notwithstanding the provisions of Part V, the Commissioner may, at any time, after giving the police officer concerned an opportunity to make representations:

- a) Terminate the appointment of an officer on probation if the Commissioner considers that he is unlikely to become an efficient and effective member of the Police Service;
- b) Dismiss an officer who gains admission into the Police Service following a false statement in reply to any question pursuant to section 10 (2);
- c) Retire an officer on reduction of establishment;
- d) Retire an officer if a board of Government medical officers appointed by the chief medical officer certifies that he is mentally or physical unfit for service and that such unfitness is likely to be permanent;
- e) Dismiss an officer who contravenes section 66;
- f) Dismiss an officer who is convicted of an offence, other than an offence against discipline;
- g) Retire, in the public interest, an officer who is incompetent or inefficient and whom the Commissioner considers is unlikely to meet the standards to be expected of a police officer;
- h) Dismiss an officer who is absent from duty without prior permission for a continuous period of more than twenty-one days; and
- i) Dismiss an officer who subverts good order, discipline or lawful authority and tends to bring the Police Service into disrepute.

2) Where the police officer concerned is to be dismissed under paragraph

i) or is a senior officer the Commissioner shall consult the Police authority before exercising his powers under subsection (1).

#### Saving of person rights

32. Unless the Police Authority otherwise directs, nothing in section 31 shall affect any rights a police officer may have to payment of a pension or gratuity.

#### Civilians

33. 1) The Commissioner may appoint such civilians to support the Police Service as he deems necessary.
- 2) The terms and conditions of appointment of civilians shall be determined by the Commissioner, after consultation with the Police Authority and the Minister responsible for the Public Service.
- 3) All salary, remuneration, allowances, etc. Payable in respect of persons appointed under this section shall be paid from the police fund.
- 4) Notwithstanding subsection (1) to (3), persons appointed under this section shall be deemed to be public officers within the meaning of section 154 of the Constitution.
- 5) Sections 12,25,27,28 and 66 and part V of this Act (subject to such modifications the Police Authority may prescribe) shall apply to civilians appointed under subsection (1) as they apply to police officers.
- 6) The appointments made under subsection (1) shall include a Finance Director, who shall be a qualified accountant, or have at least five years experience of financial administration, and shall have responsibility for the financial affairs of the Police Service.

#### PART IV-FINANCE

##### Establishment of Police Finance Council

34. 1) There shall be a Police Finance Council (" the Council"), which shall:
- a) Be a body corporate, with perpetual succession and a seal;
  - b) Be capable of holding, purchasing and otherwise acquiring and disposing of any property, movable or immovable, for the purpose of carrying out its functions and discharging its duties under this Act; and
  - c) Have the power to do and suffer all such other acts and things as a body corporate may lawfully do and suffer.
- 2) The Council shall consist of five members of whom:
- a) one shall be the Commissioner of police;
  - b) one shall be appointed by the Police Authority;
  - c) one shall be the Finance Director, appointed under section 33;
  - d) one shall appointed by the Minister of Finance; and
  - e) one shall be appointed by the Minister responsible for the Public Service.
- 3) A member of the Council appointed under paragraphs (b), (d) and (e) of subsection (2) shall, unless his appointment is terminated earlier by the appointing person or body, hold office for a period of three years, and shall be eligible for re-appointment.
- 4) A member of the Council shall not be remunerated for the services rendered but the Police Authority may, in relation to a member appointed under paragraph (b),(d) or (e) of subsection (2), if he is not public officer, authorize the payment from fund of any expenses necessarily incurred in the discharge of his duties.

##### Proceedings of Council

35. 1) The quorum of a meeting of the Council shall be three members.
- 2) The Commissioner shall be the chairman and shall, in the case of equality of voting, have a casting vote.
- 3) Subject to subsection (4), the Council shall regulate its own procedures.
- 4) The Police Authority may direct the Council to consider and report to him on such matters as may be specified in the direction, and the Council shall comply with any such direction.

##### Police grant

36. 1) The Government of Lesotho shall, each year, make a grant for police purposes ("the police grant") to the Council.
- 2) The police grant shall be paid at such time, or in installments of such amounts and at such times, as the Police Authority may determine.

##### Use of police grant

37. On receipt of the police grant the Council shall be responsible for ensuring that it is expended on the maintenance of the Police Service in accordance with the provisions of this Act and any directions of the Police Service in

accordance with the provisions of this Act and any directions of the Police Authority.

#### Police fund

38. 1) The police grant shall be paid into an account or accounts (which subject to the approval of the Police Authority may include investment accounts) at the Bank of Lesotho in the name of the Lesotho Mounted Police Service, (hereinafter referred to as the "police fund"), and the said account or accounts shall only be drawn upon by such persons and in such manner as the Police Authority may direct on the recommendation of the Commissioner.
- 2) In addition to the police grant the police fund shall comprise:
- a) any donations to the Police Service which have been accepted by the Council ; and
  - b) such sums of money as may accrue to the Police Service in the performance of its functions.
- 3) The Council shall cause to be kept proper accounts and proper records of the transactions and affairs of the police fund and shall do all things necessary to ensure that all payments out of the police fund are correctly made and properly authorized and that adequate control is maintained over the use of the police fund.
- 4) Any monies drawn for the police fund shall be expended only for police purposes and in accordance with the provisions of this Act.

#### Council to account for proper use of police grant

39. The Council shall account to the Police Authority for the efficient, economic and proper use of the police grant and in securing the economic and efficient utilization of the resources and assets provided for the maintenance of the Police Service.

#### Audit

40. 1) The Auditor-General shall inspect and audit the accounts and records of the police fund and shall draw to the attention of the Council any irregularities disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify him doing so.
- 2) The Auditor-General shall, at least once in each year, report to the Police Authority the result of the inspection and audit carried out under subsection (1).
- 3) The Auditor-General shall, or an officer authorized by him, may at all reasonable time:
- a) inspect the accounts ,records , documents and papers of the Council;
  - b) make copies of, or take extracts form ,any such documents or papers; and
  - c) require any person to furnish such information in the possession of that person, or which he has access to , as any be considered necessary for the purposes of this section.
- 4) Any person who obstructs the Auditor-General ,or a person authorized by him, in the execution of his duties, or fails to furnish such information as he is required to under this section, is guilty of an offence and shall be liable to imprisonment for a term not exceeding 12 months or to a fine of M5000, or to both.

#### Additional duties of Council

41. 1) In addition to the provisions of sections 37 to 39, the duties of the Council shall be-
- a) To prepare an annual budget for the Police Service and to submit it to the Police Authority for approval;
  - b) To adjust the annual budget in response to notification of the police grant for that year and any comments made by the Police Authority;
  - c) To ensure that there are satisfactory procedures in place in the Police Service for accounting for the expenditure of police grant in accordance with section 39; and
  - d) To ensure that proper accounts are kept by the Police Service and to require that such accounts are submitted to it each month or at such other intervals as it may determine, for approval.
- 2) The Council shall have such powers, in relation to the Police Service, including the power to require persons to furnish it with information, as the Auditor-General has under section 40.

#### Surcharge

42. Where the police fund suffers any loss or depletion as a result of failure by the Council, or any member of the Council, to comply with or act consistent with any provisions of this Act or any other law, the Minister of Finance may cause or authorize a surcharge of that person unless he shows that he acted in accordance with the advice of the Attorney-General.

## PART V-DISCIPLINE

### Application of this part

43. Where a police officer is charged with an offence against discipline the procedures set out in this Part shall apply.

### Procedure in cases of alleged misconduct of senior officers

44. 1) Where the senior officer charged is of a rank designated by the Commissioner for the purposes of this section, the hearing of the case shall be determined by a Board comprising three members appointed by the Police Authority, of whom:

- a) One shall be a senior officer at least one rank above that of the officer charged;
  - b) One shall be legally qualified and chooses from a list of persons nominated by the Attorney General; and
  - c) One shall be a person of status at least equivalent to that of the officer charged.
- 3) The member of the Board appointed under paragraph (b) of subsection (2) shall be the chairman.
- 4) An appeal against the decision of the Board appointed under subsection (2) shall lie to a subordinate court.

### Procedure in case of alleged misconduct of subordinate officers

45. Where the officer charged is not a senior officer there shall be a hearing before a senior officer, not normally deployed within the same district in which the officer charged is deployed, appointed by the Commissioner; Provided that where it appears to the senior officer that by reason of the gravity of the offence or for any other reason, the matter would be dealt with more properly by a Board, the senior officer may defer his hearing of the case and report the facts to the Commissioner who may direct the senior officer to hear the case or may remit it to a hearing before a Board constituted in accordance with section 44 (1).

### Punishment by the Board

46. 1) Subject to any provision in regulations made under section 84 (2) ©, a Board appointed under section 44 shall, on conviction, recommend to the Commissioner, one or more of the following punishments;

- a) Reprimand;
- b) Severe reprimand;
- c) Fine not exceeding 21 days pay;
- d) Reduction in rank; or
- e) Dismissal.

On receipt of the recommendation of the Board, the Commissioner may accept, vary or reject the recommendation and shall inform the police officer concerned of his decision and of any punishment he imposes.

### Punishment by a senior officer

47. Subject to any provision in regulation made under section 84 (2)©, a senior officer conducting a hearing under section 45 shall, on conviction, recommend one or more of the following punishments;

- a) Reprimand;
- b) Severe reprimand;
- c) Fine not exceeding 21 days pay;
- d) Extra duties in addition to normal duties; or
- e) Dismissal;

### Stoppage of pay

48. 1) Any fine imposed on a police officer as a result of disciplinary proceedings may be recovered by stoppage from pay of that officer.

### Procedure at disciplinary hearing

- 1) Any senior officer or Board conducting a disciplinary hearing may summon any person to attend as a witness at the hearing and may take that person's evidence on oath or affirmation.
- 2) Any person who fails to comply with a summons issued under subsection (1), or who complies but refuses to give evidence or produce any document he is required to produce, is guilty of an offence and shall be liable to be dealt with by a subordinate court as if he were a witness summoned to appear at a criminal trial before that court.
- 3) A witness, except a member of the Police Service or a public officer, shall be allowed such expenses as would be allowed to a witness attending a subordinate court.
- 4) The Commissioner may prescribe rules of procedure for disciplinary hearing and such rules shall prescribe that all hearings shall be in private.
- 5) At any disciplinary hearing held pursuant to this Act the officer accused shall be entitled, at his own cost, to be represented by a legal practitioner admitted to practice in Lesotho, or by an officer by the Commissioner.

#### Appeal to Police Appeals Tribunal

50. Any member of the Police Service, other than one who falls within section 44 (2), who is convicted and sentenced in disciplinary proceedings under this Act may appeal to the Police.

Appeals Tribunal may:

- a) Confirm the conviction and punishments; or
- b) Make such findings or impose such punishments as, in their opinion, should have been made or imposed at the hearing of such member;
- 2) The Police Appeals Tribunal may dismiss an appeal, allow it in whole or in part, but shall not substitute for the conviction or punishment a conviction or punishment for a different offence from that for which the officer was dismissed or reduced in rank, whether or not officer was charged with that different offence.

#### Constitution of the Police Appeal Tribunal

51. 1) Where the appellant is a subordinate officer, other than one who is appealing against reduction in rank or dismissal, the Police Appeals Tribunal shall consist of two or more officers appointed by the Commissioner with due regard to impartiality.

2) Where the appellant is a senior officer, other than one who falls within section 44(2), or is a subordinate officer appealing against reduction in rank or dismissal, the Police Appeals Tribunal shall consist of three members appointed by the Police Authority, of whom;

- a) one shall be a senior officer at least one rank above that of the appellant;
- b) one shall be legally qualified and chosen from a list of persons nominated by the Attorney General; and
- c) one shall be a person of status at least equivalent to that of the appellant.

3) The member of the Tribunal appointed under paragraph (b) of subsection (2) shall be the chairman.

4) Where an appeal has been lodged under this section, the execution of the punishment imposed in respect of the conviction which is the subject of the appeal, shall be suspended pending the decision of the Police Appeals Tribunal on the appeal.

#### Procedure at Police Appeals Tribunal

52. Except as otherwise provided by this Act, the Police Appeals Tribunal shall determine its own procedure.

#### Interdiction

53. 1) Any member of the Police Service may be interdicted at any time by the Commissioner pending the resolution of any disciplinary or criminal proceedings against him, but he shall not by reason of such interdiction cease to be a member of the Police Service;

Provided that during that the period of his interdiction he shall not be entitled to any pay or allowances but the Commissioner may, at his discretion, order payment of the whole or part of his pay and allowance.

2) If the disciplinary proceedings are resolved in his favour the member of the Police Service shall be entitled to reimbursement of the whole of his pay and allowance for the period of his interdiction less any sums already paid.

3) During any period of interdiction a police officer shall cease to have the powers, privileges and benefits of his office but he shall be subject to the same duties, discipline and authority as if he had not been interdicted.

#### Prosecution of offences

54. Nothing in this Act shall prevent any person from being prosecuted for an offence other than under the powers contained in this Act and, where a police officer has been acquitted of a criminal charge, such acquittal shall not operate as a bar to disciplinary proceedings arising out of the same facts being brought under this Act if such fact also disclose an offence against discipline.

#### Offences committed outside Lesotho

55. If a member of the Police Services does or omits to do any act outside Lesotho, which, if done or omitted in Lesotho, would have constituted a criminal or a disciplinary offence under this Act, it shall be deemed for the purposes of this Act, that such act was done or omitted in Lesotho.

## PART VI-OFFENCES

### Mutiny, desertion, etc.

56. 1) Any police officer who:

- a) takes part in a mutiny;
  - b) incites another police officer to take part in a mutiny,
- shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years.

2) Any police officer who-

- a) being present at any mutiny or sedition amongst the Police Service does not endeavour by all possible means to

suppress such mutiny or sedition;

b) knowing of any intended mutiny or sedition amongst the Police Service does not give information thereof without delay to a senior officer;

c) deserts, or permits others to desert, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding five years.

3) In this section "mutiny" mean two or more police officers, with or without other persons, whose aim is-

a) to overthrow or resist lawful authority in the Police Service; or

b) to disobey such authority in circumstances that are subversive of discipline or with the object of avoiding any duty service.

#### Causing disaffection

57. Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of the Police Service or induces or attempts to induce, or does any act calculated to induce, any member of the Police Service to withhold his services, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding five years or to a fine of M5,000, or to both.

#### General offences in relation to the police

58. Any person who-

a) By false representation, obtains or attempts to obtain admission to the Police Service;

b) Having been dismissed from the Police Service receives, by concealing that fact, any pay, allowance or gratuity;

c) Impersonates a police officer, or makes any statement or does any act calculated falsely to suggest that he is a police officer;

d) Supplies any police officer while on duty with intoxicating liquor;

e) Resists or obstructs a police officer in the execution of his duty;

f) Assaults a police officer in the execution of his duty;

g) Without reasonable excuse, refuse a call by any police officer to assist in the extinguishing or control of a fire or to give assistance at the scene of a fire;

h) Not being a police officer, wears or has in his possession any article of police uniform, unless he proves that he obtained possession of that article lawfully and has possession of it for a lawful purpose; and

i) Not being a police officer, has in his possession any item of police equipment or property, unless he proves that he obtained possession of that equipment or property lawfully and has possession of it for a lawful purpose, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years to a fine not exceeding M1000, or to both.

### PART VII-POLICE ASSISTANTS AND POLICE VOLUNTEERS

#### Police Assistants

59. 1) Whenever there are not in any area or locally sufficient members of the Police Service available to perform police duties or whenever any grave disturbance of the peace has taken place, or in any public emergency, or where any such disturbance may reasonably be anticipated, or where it is in the public interest, the Police Authority may, on the application of the Commissioner, authorize him to appoint, in such form as may be prescribed, any person willing to act as a police assistant for a temporary period.

2) A police assistant shall be paid such remuneration as the Commissioner may prescribe.

3) A police assistant shall cease to occupy that office when his period of temporary appointment lapses.

4) The Commissioner may, by notice in writing, suspend or terminate the appointment of a police assistant.

#### Police Volunteers

60. 1) The Commissioner may appoint fit and proper persons to the Police Volunteers Service, in such manner as may be prescribed by the Police Authority and may terminate such appointment at any time and with notice or need to give reason thereof.

2) Police volunteers shall be required to carry out such police duties on a part-time basis as the Commissioner may direct, and for such time and in such manner as he may deem fit and necessary; provided that in time of war or emergency the Prime Minister may direct that some or all such police volunteers shall full-time service for such period, as the Prime Minister may deem necessary.

3) Police volunteers shall be compensated for their expenses and may be paid a gratuity as the Commissioner may, from time to time, direct.

#### Powers of police assistants and police volunteers

61. 1) Persons appointed under this part carry out such functions as the Commissioner may direct.

2) Subject to any restrictions prescribed by the Commissioner, a person appointed under this Part shall, in the exercise of his functions, have the same powers, privileges and protection; be liable to the same authorities as a

police officer.

3) Parts III, V and VI and sections 66 (1) and 76 shall apply to persons appointed under this Part, as they apply to police officers.

4) Any existing police power conferred upon any volunteer, other than conferred in this Part, shall cease to have effect.

Attestation of police assistants and police volunteers

62. Every person appointed under sections 59 and 60 shall be attested by making a declaration before the senior police officer in the district, in the form set out in Schedule 2.

Equipment, etc. for use by police assistants and police volunteers.

63. 1) The Commissioner may, from the police fund, provide such uniform, equipment and other accoutrements for the use persons appointed under this Part, as he considers necessary for the exercise of their functions.

2) Within fourteen days of resignation or termination of his appointment, a person appointed under this Part shall return any police uniform, equipment or accoutrements which have been issued to him.

Resignation of police assistants and police volunteers.

64. A Person appointed under this Part may resign from his office by giving notice in writing to the Commissioner.

Compensation for death and injury of police assistants and volunteers

65. 1) If a person appointed under this Part, is killed or injured in the execution of his duty, he or, if he is dead, his dependants shall be entitled to compensation as if he were a police officer.

2) Subsection (1) shall not apply if the person appointed under this Part, is entitled to compensation from the revenue of Lesotho.

## PART VII-MISCELLANEOUS

Prohibition on membership of political parties and trade unions

66. 1) A police officer shall not be a member of, or affiliated to, any political party, or any organization, club, association or group of a political nature.

2) Subject to subsection (3), a police officer shall not be a member of:

a) any trade union (whether registered, incorporated or not), or anybody associated or affiliated to a trade union:

b) anybody or association the object of which, or one of the objects of which, is to control or influence the conditions of service or employment of any trade or profession; and

c) anybody or association the object of which, or one of the object of which, is to control or influence the conditions of service of police officers.

3) Nothing in this section applies to membership of anybody approved by the Police Authority for the purposes of this Act to present police officers.

4) The Police Authority may prescribe rules for the conduct and proceedings of a body approved by him under subsection (3).

Establishment of Police Negotiating Council

67. 1) The Police Authority shall establish a body to be called the Police Negotiating Council.

2) The Police Negotiating Council shall consist of an equal number of members appointed by the Police Authority and members appointed by any association representing police officers approved by the Police Authority under section 66.

3) The Police Authority may prescribe rules-

a) for the organization, procedure and conduct of business of the Police Negotiating Council; or

b) for the terms of appointment of members of the Police Negotiating Council.

Objects of the Police Negotiating Council

68. The objects of the Police Negotiating Council shall be to consider questions relating to the terms and conditions of service of members of the Police Service and to establish procedures for dealing with any grievances of members of the Police Service.

Consultation with the Police Negotiating Council

69. Before making regulations under section 84 the Police Authority shall consult the Police Negotiating Council and shall take into account any representations it may make.

#### Establishment and functions of the Training Advisory Board

70. 1) There shall be a training Advisory Board which shall comprise:
- a) Two persons appointed by the Commissioner;
  - b) Two persons appointed by an association representing police officers approved under section 66 (3); and
  - c) One person appointed by the Police Authority
- 2) The function of the Training Advisory Board shall be to advise the Commissioner on all aspects of training for the Police Service, including;
- a) the establishment and maintenance of training schools for police officers;
  - b) the training to be undertaken by police officers; and
  - c) how training can be most efficiently and effectively provided.
- 3) No member of the Training Advisory Board shall be entitled to remuneration for service rendered.

#### Assistance to Defence Force

71. 1) The Commissioner may, at the request of the Commander of the Defence Force, and with the approval of the Police authority, authorize the use of any member or members of the Police Service in support of, or to give assistance to, the Defence Force in the discharge of its functions.
- 2) Where a police officer is provided under subsection (1) he shall be under the command of the Commander of the Defence Force and subject to the provisions of the Defence Force Act 1995.

#### Collaboration arrangements

72. If it appears to the Commissioner that any police functions can be more efficiently discharged by members of the Police Service acting jointly with some other body or bodies, either within or outside Lesotho, he may, with the consent of the Police Authority, enter into arrangements for the joint discharge of those functions.

#### Aid to police forces outside Lesotho

73. 1) The Commissioner may, on the application of the chief officer of a police force outside Lesotho, and with the consent of the Police Authority, provide police officers or other assistance for the purpose of enabling that other force to discharge its functions.
- 2) Where a police officer is provided under subsection (1) he shall:
- a) be under the command, direction and control of the chief officer of that force;
  - b) have in any place the like powers and privileges as a member of that other force has in that place; and
  - c) not forfeit any benefits or privileges in the Police Service while he is attached to the other Force.

#### Attachment of property

74. No article whatsoever which has been supplied to any police officer, police assistant or police volunteer for the execution of his duty shall be seized or attached under any writ of execution nor shall the same pass under any order made for the sequestration of the state of any such officer.

#### Assignment of pay

75. No police officer or police assistant shall, without the consent of the Commissioner, assign the whole or any part of any pay, gratuity or allowances payable under this Act.

#### Liability for wrongful acts of police officers

76. 1) The Commissioner shall be liable in civil proceedings in respect of the wrongful acts of police officers under his command, in the performance or purported performance of their functions, and accordingly may be joined in proceedings in respect of such wrongdoing.
- 2) Where any damages or cost are awarded against the Commissioner in any proceedings brought against him by virtue of this section then, unless the Police Authority directs that those costs or damages be paid in whole or in part from the Consolidated Fund, they shall be paid from the police fund.

#### Limitation of actions

77. Any civil action against the Crown or persons acting in pursuance of this Act or the regulations made there under, in respect of anything done or omitted to be done in pursuance thereof, shall be commenced within six months next after the cause of action arises, and notice in writing of any civil action and of the substance thereof shall be given to the defendant at least two months before the commencement of the said action;

Provided that the court may, for good shown, proof of which shall lie upon the applicant, extend the said period of six months

#### Police Rewards and Fines Fund

78. 1) All fines imposed in disciplinary proceedings and the proceeds of sale of unclaimed property shall be placed to the credit of an account to be known as the Police Rewards and Fines Fund.
- 2) No payments shall be made from the Police Rewards and Fines Fund except with the authority of the Commissioner.
- 3) The Commissioner may at his discretion authorize payment from the Police Rewards and Fines Fund for any of the following purposes-
- a) assistance to the spouses or families of deceased police officers, or to any such officers discharged from the Police Service as medically unfit for service;
  - b) payment to police officers as rewards for meritorious acts or service in the execution of duty, if such payments are not made from the revenue of Lesotho;
  - c) the procuring of any comforts or conveniences and advantages to members of the Police Service which are not chargeable on the general revenue;
  - d) the granting of loans in special circumstances to police officers repayable by installments from their pay; and
  - e) the providing of prizes for competitions limited to members of the Police Service ,or for Police Service competitions.
- 4) The Commissioner shall cause to be kept proper accounts and proper records of the transactions and affairs of the Police Rewards and Fine Fund and shall do all things necessary to ensure that all payment out of the Police Rewards and Fine Fund are correctly made and properly authorized and that adequate control is maintained over the use of the Police Rewards and Fines Fund.
- 5) Section 40 shall apply to the Police Rewards and Fine Funds as it applies to the Police Fund.

#### Lost property

79. 1) Where any lost property has come into the possession of a member of the Service he shall, as soon as practicable, deliver it to a police officer in charge of a police station.
- 2) If any lost property has not been claimed within six months of being found, the police officer in charge of the police station shall report the matter to the Commissioner.
- 3) On receipt of a report under subsection (2), the Commissioner may apply to the magistrate of the district where the property was found for an order that the said property be sold by public auction and the proceeds paid into the Police Rewards and Fine Funds or, if the property is of a dangerous, worthless or otherwise unsaleable nature, for an order that the property be destroyed, and the Magistrate ,if satisfied that the property has not been lawfully claimed within six months of being found, may so order.
- 4) Notwithstanding the other provisions of this section, where a police officer in charge of a police station is of the opinion that the immediate sale of any perishable lost property would be for the benefit of the owner he may at any time direct that it be sold at public auction and the proceeds paid to the Police.

#### Rewards and Fine Funds:

Provided that if lawful claim to the ownership of the property is made within six months of the date of sale the proceeds of sale shall be paid to that person.

#### Apportionment of proceeds of sale

80. So much of the proceeds of sale of any property as the Commissioner may direct, if no claim to it has been made within six months of the sale, may be apportioned to the finder.

#### Hire of police officers for private functions

81. Members of the Police Service may, at the discretion of the Commissioner, be hired to attend and keep order or provide security at private functions or premises at fees to be determined by the Commissioner and the fees in respect of the hire of police officers for private functions shall be paid into the police fund.

#### Hire of Police Band

82. 1) At the discretion of the Commissioner, the Police Band may be hired to play at private functions or premises at charges to be determined by the Commissioner.

2) The fees in respect of the hire of the Police Band shall be placed to the credit of an account to be called the Band Uniform and Equipment Fund, and payments from this fund shall be made, on the authority of the Commissioner, to purchase Band uniforms and instruments, for the repair of band uniforms, and instruments, and for the payment of extra duty allowances to Band personnel playing at private functions or premises.

#### Supply of copies of police reports, etc.

83. 1) The Commissioner may authorize the supply of copies of police reports, statements, sketches, plans,

photographs, etc. To attorneys, insurance companies or other persons or bodies, at fees to be from time to time by the Commissioner.

2) Any fees received under subsection (1) shall be paid into the police fund.

#### Regulations

84. 1) The Police Authority may, after consultation with the Commissioner and, in respect of matters concerning pay, allowances, leave entitlement, pensions and compensation for death or injury on duty, the Minister responsible for the Public Service and the Minister of Finance, make regulations relating to the government, administration and conditions of service of the Police Service.

2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to all or any of the following matters-

- a) The ranks to be held by police officers.
- b) the qualifications for appointment and promotions of police officers;
- c) the definitions of offences against discipline and the penalties therefor;
- d) pay, allowances and leave entitlement of police officers;
- e) pensions and compensation for death or injury while on duty; and
- f) the issue, use and return of police uniform, equipment and accoutrements;

Provided that Regulations in relation to appointments and promotions shall provide that all such appointments and promotions shall be on the basis of merit.

#### Repeals, savings transitional and consequential provisions

85. 1) The Police Order 1971 is hereby repealed.

2) Notwithstanding subsection (1)-

- a) any police officer appointed under that Order who was a member of the Lesotho Mounted Police Force in existence immediately before the coming into operation of this Act shall, on and after that date, continue to be a member of the Police Service established under this Act, as if he had been appointed under the provisions of this Act;
- b) anything done, or purported to be done, under any provisions of the enactment repealed by subsection (1) shall be of full force and affected as if done under a corresponding provision of this Act; and
- c) all regulations made under the enactment repealed by subsection (1) shall, so far as they are consistent with this Act be deemed to have been made and shall continue in force, as if made under this Act.

3) Any reference in any law to "Royal Lesotho Mounted Police" or "Lesotho Mounted Police Force" shall be construed as a reference to the "Lesotho Mounted Police Service".

#### SCHEDULE 1

##### SECTION 10

##### FORM OF DECLARATION FOR POLICE OFFICERS

I.....of.....do solemnly and sincerely declare that I will well and truly serve the people of Lesotho in the office to which I have been appointed, without favour or affection, malice or ill will, and that I will to the best of my power and with due regard to the Constitution, cause the peace to be kept and preserved, maintain law and order, prevent all offences against the person and property, detect offences, apprehend offenders and bring them to justice; and that while I continue to hold that office I will to the best of my skill and knowledge discharge all the duties of that office faithfully according to law.

Signature .....

Declared before me at .....this .....day..... of.....Witness

.....(Commissioner of Police)

#### SCHEDULE 2

##### [SECTION 62]

##### FORM OF DECLARATION FOR POLICE ASSISTANTS AND POLICE VOLUNTEERS

I.....of.....do solemnly and sincerely declare that on the appointment to the office of .....for.....I will well and truly serve the people of Lesotho, and comply with the directions of .....And I shall use the powers of my office to discharge the duties bestowed upon me faithfully and according to the law.

Signature .....

Declared before me at .....this .....day.....of

.....Witness..... (Senior officer of District)

GOVERNMENT NOTICE NO. 20 OF 1998  
EXPLANATORY MEMORANDUM TOT THE POLICE SERVICE BILL  
(Circulated by authority of the Rt. Honorable Minister of Home Affairs Mr. B.P MOSISILI)  
OUTLINE

The purpose of this Bill to make provision for the organization, administration and discipline of the Lesotho Mounted Police Service.

PART I

Part I provides for the short title and commencement of the Bill.

PART II

Part II provides for the organization of the Lesotho Mounted Police Service. Clause 3 and 4 establish a Police Authority with a duty to maintain a police service for Lesotho, to be called the Lesotho Mounted Police Service, and for the general functions of that police service, Clauses 5 to 8 provide for the appointment of the Commissioner of Police, Deputy Commissioner and other members of the Police Service. Clause 10 provides for members of the Police Service to be attested as Police Officers. Clause 11 provides for resignation from the Police Service .Clause 12 provides for delegation of the Commissioner's functions. Clause 13 provides for the Commissioner to have command of the Police Service. Clauses 14 to 20 relate to the accountability of the Police Service, including provision for the policing plan, the development plan, annual reports and inquiries. Clause 21 provides for an Inspector of Police. Clause 22 establishes a Police Complaints Authority to deal with complaints about members of the Police Service. Clauses 23 provides for the Commissioner to make arrangements for obtaining the views of the public about policing.

PART III

Part III provides for the powers and duties of police officers and the Commissioner. Clause 24 sets out the general duties. Clauses 25 to 29 set out some specific duties. Clause 30 provides a saving for powers and duties conferred by other legislation. Clause 31 and 32 provide power for the Commissioner to remove certain police officers and save for pension rights. Clauses 33 empower the Commissioner to appoint civilians to support the Police Service.

PART IV

Part IV makes provision for the finances of the Police Service, clauses 34 and 35 establish the Police Finance Council. Clause 36 and 37 make provision for the payment and use of the police grant .Clause 38 makes provision for the creation of the police fund. Clauses 39 to 41 impose duties on the police Finance Council in respect of the proper use of and accountability for the police fund. Clause 42 provides for surcharge of members of the Police Finance Council for unlawful use of the police fund.

PART V

Part V makes provision for disciplinary proceedings in the Police Service Clause 43 apply this Part. Clauses 44 to 49 provides for a disciplinary hearing, punishment and procedures at the hearing. Clause 50 provides for an appeal to the Police Appeal tribunal in certain cases. Clauses 51 and 52 establish and provide for the procedure at the Police Appeal Tribunal. Clause 53 provides for interdiction .Clauses 54 and 55 provide for the prosecution of other offences and for those committed outside Lesotho.

PART VI

Part VI makes provision in relation to criminal offences. Clauses 56 provides for offences of mutiny, desertion, etc. Clause 57 provides for the offence of causing disaffection amongst police offices. Clause 58 provides for other offences in relation to the police.

PART VII

Part VII provides for police assistants and police volunteers. Clauses 59 and 60 provide for appointment etc. Clauses 61-63 provide for powers, attestation and equipment; and Clause 64 provides for resignation. Clause 65 provides for compensation for death and injury.

## PART VIII

Part VIII deals with miscellaneous provisions in relation to the police. Clause 66 prohibits membership of political parties and trade unions by members of the Police Service. Clauses 67 to 69 provide for the Police Negotiating Council. Clause 70 provides for the Training Advisory Board. Clauses 71 to 73 provide for the Police Service to assist other bodies. Clauses 74 and 75 restrict assignment of property and attachment of pay. Clause 76 provides for the Police Rewards and Fines Fund. Clauses 79 provides for the handling of lost property and clause 80 make provision for appointment of the proceeds of sales. Clauses 81 to 83 makes provision makes provision for fees and charges for certain police service. Clause 84 enable the police Authority to make regulations with two members of the Police Service .Clause 85 repeals the Police Order 1971 and makes savings, transitional and consequential provisions.