

have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(4) Any reference in this Chapter to the national status of the parent of a person at the time of that person's birth shall, in relation to a person born after the death of either parent be construed as a reference to the national status of that parent at that parent's death, and where that death occurred before the coming into operation of this Constitution, and the birth occurred after the coming into operation of this Constitution the national status that the parent would have had if he or she had died on the coming into operation of this Constitution shall be deemed to be his or her national status at the time of his or her death.

CHAPTER V THE KING

44. The Office of King

Contents

(1) There shall be a King of Lesotho who shall be a constitutional monarch and Head of State.

(2) The King shall do all things that belong to his office in accordance with the provisions of this Constitution and of all other laws for the time being in force and shall faithfully comply with the terms of the oath of the office of King set out in Schedule 1 to this Constitution.

45. Succession to the throne of Lesotho

(1) The College of Chiefs may at any time designate, in accordance with the customary law of Lesotho, the person (or the persons, in order of prior right) who are entitled to succeed to the office of King upon the death of the holder of, or the occurrence of any vacancy in, that office and if on such death or vacancy, there is a person who has previously been designated in pursuance of this section and who is capable under the customary law of Lesotho of succeeding to that office, that person (or, if there is more than one such person, that one of them who has been designated as having the first right to succeed to the office) shall become King.

(2) If, on the death of the holder of, or the occurrence of any vacancy in, the office of King, there is no person who becomes King under subsection (1), the College of Chiefs shall, with all practical speed and in accordance with the customary law of Lesotho, proceed to designate a person to succeed to the office of King and the person so designated shall thereupon become King.

(3) Whenever the holder of the office of King or a Regent -

(a) has occasion to be absent from Lesotho for a period which the College of Chiefs has reason to believe will be of short duration; or

(b) is suffering from an illness which the College of Chiefs has reason to believe will be of short duration,

the College of Chiefs may for the time being designate a person, in accordance with the customary law of Lesotho, to exercise the functions of the office of King, and any person for the time being so designated may exercise all the functions of the office of King during the absence or illness of the holder of that office or the Regent.

(4) Every designation made for the purposes of this section shall be published in the Gazette.

(5) Where any person has been designated to succeed to the office of King in pursuance of subsection (1) or (2), any other person who claims that, under the customary law of Lesotho, he should have been so designated in place of that person may, by application made to the High Court within a period of six months commencing with the day on which the designation was published in the Gazette, apply to have the designation varied by the substitution of his own name for that of the first mentioned person, but, save as provided in this Chapter, the designation of any person for the purposes of this section shall not otherwise be called in question in any court on the ground that, under the customary law of Lesotho, the person designated was not entitled to be so designated.

(6) Pending the decision of the High Court or, as the case may be, of the Court of Appeal, a designation which is the subject of the appeal shall remain of full force and effect.

(7) In this section references to a vacancy in the office of King are references to a vacancy caused by the abdication of the King or by a resolution or resolutions of Parliament under section 53 of this Constitution that the holder of the office of King should cease to hold that office.

46. The Regent

(1) The College of Chiefs may at any time designate, in accordance with the customary law of Lesotho, the person (or the persons, in order of prior right) who shall be Regent, that is to say, who shall exercise the functions of the office of King in any of the following circumstances

(a) when the holder of that office has not attained the age of twenty-one years; or

(b) when the holder of that office (and any person who has been designated as having a prior right to be Regent) is unable by reason of absence from Lesotho or by reason of infirmity of body or mind to exercise the functions of that office; or

(c) when, in the circumstances specified in section 45(2) of this Constitution, the College of Chiefs has not yet made a designation in pursuance of that subsection, and if, in any of those circumstances, there is a person who has previously been designated in pursuance of this subsection and who is capable under the customary law of Lesotho of becoming Regent, that person (or, if there is more than one such person, that one of them who has been designated as having the first right to be Regent) shall become Regent.

(2) if, in any of the circumstances specified in subsection (1)(a), (b) or (c), there is no person who becomes Regent under that subsection, the College of Chiefs shall, with all practical speed and in accordance with the customary law of Lesotho, proceed to designate a person to be Regent and the person so designated shall thereupon become Regent.

(3) If the College of Chiefs fails within a reasonable time to discharge the duty imposed on it by subsection (2), the High Court may, upon the application of any person, itself designate a person to be Regent in accordance with the customary law of Lesotho and the person so designated shall thereupon become Regent.

(4) A Regent shall not exercise the functions of the office of King at any time when a person is for the time being designated to exercise such functions in pursuance of section 45(3) of this Constitution.

(5) Every designation made for the purpose of this section shall be published in the Gazette.

47. Proceedings in High Court and Court of Appeal

(1) An appeal shall lie to the Court of Appeal from any decision of the High Court made under section 45(5) or section 46(3) of this Constitution.

(2) The High Court and the Court of Appeal shall consider with all practical speed every application or appeal, as the case may be, made to it under section 45(5), or section 46(3) of this Constitution or subsection (1).

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under section 45(5) and section 46(3) of this Constitution (including rules with respect to the time within which application may be made to the Court under those sections).

48. Civil List of the King and remuneration of Regent

(1) The King shall have such Civil List as may be provided by Parliament and that Civil List shall be a charge upon the Consolidated Fund and shall not be reduced during the King's continuance in office.

(2) A person exercising the functions of the office of King as Regent shall, in respect of any period during which he exercises those functions, be entitled to remuneration as may be prescribed by Parliament, and the remuneration prescribed under this subsection in relation to

any person in respect of any such period shall be a charge on the Consolidated Fund and shall not be reduced after the commencement of that period.

49. Immunity of the King and Regent from taxation

(1) The King shall be entitled to immunity from taxation in respect of his Civil List, all income accruing to him in his private capacity and all property owned by him in his private capacity.

(2) A person who is exercising or who has exercised the functions of the office of King as Regent shall be entitled to immunity from taxation in respect of any remuneration to which he is entitled under section 48(2) of this Constitution, all income accruing to him in his private capacity during any period during which he is exercising those functions and, in so far as the taxation relates to that period, all property owned by him in his private capacity.

(3) The King shall be entitled to immunity from the compulsory taking possession of any property held by him in his private capacity and the compulsory acquisition of any interest in or right over any property, being an interest or right owned by him in his private capacity.

50. Protection of the King and of certain persons in respect of legal proceedings

(1) Whilst any person holds the office of King, he shall be entitled to immunity from suit and legal process in any civil cause in respect of all things done or omitted to be done by him in his private capacity and to immunity from criminal proceedings in respect of all things done or omitted to be done by him either in his official capacity or in his private capacity.

(2) Whilst any person exercises the functions of the office of King as Regent or by virtue of a designation under section 45(3) of this constitution, no criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him either in his official capacity or in his private capacity, and no civil proceedings shall be instituted or continued in respect of which relief is claimed against him in respect of anything done or omitted to be done by him in his private capacity.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period during which that person has held the office of King or exercise functions of the office of King shall not be taken into account in calculating the period of time prescribed by that law which determines whether any such proceedings as are mentioned in subsection (1) or (2), as the case may be, of this section may be brought against that person.

(4) Where a debt or obligation is owing to any person as a result of anything done or omitted to be done by the King, Regent or by a person designated to exercise the functions of the office of King during the absence or illness of the holder of that office or of the Regent, in his private capacity, the person to whom the debt or obligation is owing may lodge an application in writing to the Minister responsible for finance who, in his absolute discretion, may, after consultation with the Attorney-General defray the debt or make provision to satisfy the obligation out of the Civil List.

(5) Any civil right of action that the King, or any person exercising the functions of the office of the King as Regent or by virtue of a designation under section 45(3) of this Constitution, would have in his private capacity, shall vest in the Attorney-General who may institute appropriate proceedings, and any proceedings therefrom shall be paid to the King or, as the case may be, to the person exercising the functions of the office of the King.

51. Oaths

(1) The King shall, as soon as is practicable after succeeding to the office of King and before entering upon the duties of his office (or, in the case of a person who when he so succeeded was below the age of twenty-one years, as soon as is practicable after attaining that age before entering upon the duties of office), take and subscribe the oath for the due execution of his office which is set out in Schedule 1 to this Constitution.

(2) A Regent shall, before entering upon the duties of his office, take and subscribe the oath of allegiance and the oath for the due execution of his office which is set out in Schedule 1 to this Constitution.

(3) The oaths referred to in the foregoing provisions of this section shall be administered to the King or, as the case may be, to the Regent, by the Chief Justice (or, in the absence of the Chief Justice, by a judge of the Court of Appeal or some other judge of the High Court) in the presence of such of the judges of the Court of Appeal, such of the other judges of the High Court and such Ministers of the Government of Lesotho and such other authorities of the Government of Lesotho as are able to attend.

52. Abdication

The King may, at any time, abdicate, but such abdication shall not affect the right of any person who is entitled to succeed to the office of King.

53. Vacation of the office of King

(1) If, in the opinion of the Prime Minister -

(a) the King declines to take and subscribe the oath set out in Schedule 1 to this Constitution;

(b) the King having taken and subscribed the said oath, thereafter fails or declines to abide by any of its terms; or

(c) the King is unable to perform the functions of his office due to infirmity of body or mind, the Prime Minister may report the facts thereof to the National Assembly and the Senate.

(2) On receiving a report under subsection (1), the National Assembly and the Senate shall each determine and declare by resolution whether the circumstances are such that the person holding the office of King should cease to hold such office and, subject to the provisions of subsection (3), where it is so declared that the person holding the office of King should cease to hold that office, that person shall vacate the office of King with effect from such date as may be specified in the resolution or if no date is so specified, on the date on which the resolution is passed.

(3) Where the resolutions of the two Houses of Parliament made under subsection (2) differ, the resolution of the National Assembly shall prevail.

(4) The Prime Minister shall cause to be published in the Gazette every resolution made by the Houses of Parliament under this section and, if as a consequence of such a resolution the person holding the office of King has vacated his office, shall give notice of that fact and of the date (in this section referred to as the "effective date") of his so vacating his office.

(5) Whenever the person holding the office of King has vacated office in accordance with this section, any act performed or any thing done on or after the effective date by the person so vacating the office or by the Regent or by a person designated under this Constitution to perform the functions of the office of King which purports to have been performed or done by such person in the exercise of the office of King shall be null and void.

CHAPTER VI PARLIAMENT

Part I Composition of Parliament

54. Establishment of Parliament

There shall be a Parliament which shall consist of the King, a Senate and a National Assembly.

55. Composition of Senate

The Senate shall consist of the twenty-two Principal Chiefs and eleven other Senators nominated in that behalf by the King acting in accordance with the advice of the Council of State:

Provided that –

(a) a Principal Chief may, by notice in writing to the President of the Senate, designate any other person to be a Senator in his place either generally or for any sitting or sittings of the