

THE PARLIAMENT OF LESOTHO

NATIONAL LIBRARY SERVICE BILL, 2022

STATEMENT OF OBJECTS AND REASONS

**(Circulated by authority of the Honourable Minister responsible for
Tourism, Environment and Culture, Ntlhoi Motsamai)**

The purpose of the National Library Service Bill, 2022 is among others to provide for the establishment of the National Library Service, the National Library and other libraries as well as collection and promotion of available national documentary heritage.

The Bill establishes the National Library Service Board whose primary objective is to promote the development and use of a library and information resource in Lesotho for the benefit of the Basotho nation. The Bill also establishes the National library to serve as a national centre for conservation of materials emanating from or relating to Lesotho and Basotho so as to build up a collection, through legal deposit and other means, of published, unpublished, semi-published and electronic documents emanating from or related to Lesotho. The Bill further provides for constituent libraries whose function is to promote awareness and use of libraries at a more decentralised level, throughout the country.

Furthermore, the Bill requires an author, publisher or producer to make a legal deposit of any library material which is intended to be generally available for purposes of preserving the national literacy heritage of Lesotho and Basotho. The Bill also establishes specific sub-committees of the Board to advise the Board on any matter concerning the legal deposit. The subcommittees will and also advise the Director of the National Library Service to produce an entire work received as a legal deposit for purposes of preservation, subject to copyright law.

Finally, the Bill provides for a fine not exceeding Twelve Thousand Maloti as fine, or imprisonment for a period not exceeding one year or a combination of the two against any person who contravenes this law, as a general punishment.

NATIONAL LIBRARY SERVICE BILL, 2022

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NATIONAL LIBRARY SERVICE BILL, 2022

A BILL for

An Act to provide for the establishment of the National Library Service, the National Library and other libraries; for the collection, making available and promotion of awareness of national documentary heritage; promotion of information awareness and literacy; facilitation of access to the world's information resources and related matters.

Short title and commencement

1. This Act may be cited as the Lesotho National Library Service Act, 2022 and shall come into operation on the date of publication in the Gazette.

Interpretation

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

“author” means a person responsible for the intellectual or artistic content of a work;

“bibliographic service” means the service of providing indexing, abstracting, cataloguing and recording library material for the purpose of announcing or publishing the national imprint through the national bibliography;

“board” means the Board of the National Library Service established in terms of section 6;

“constituent library” means -

- (a) any library established for –
 - (i) a community;
 - (ii) an agency or ministry of government;
 - (iii) a school;

- (iv) a tertiary education institution, and
- (v) any institution or place which is declared as a constituent library by the Minister in terms of this Act.

“copyright” means rights given to creators for their literary and artistic work, for which they receive protection against all forms of violation by preventing copying and reproduction for commercial gain as enshrined in the Copyright Order 1989¹;

“depository library” means any other library responsible for collection of literary and documentary heritage other than the National Library;

“director” means the Director of the National Library Services;

“information society” means a society in which the creation, distribution, diffusion, use and manipulation of information is a significant economic and cultural activity;

“legal deposit” means a statutory obligation which requires a person producing any type of documentation in multiple copies, printed or in electronic format to be obliged to deposit one or more copies for free with a recognised national institution;

“Lesotho Library Association” means the Lesotho Library Association registered under the Societies Act, 1966²;

“library” means a collection of resources in variety of formats that is organized by information professionals or other experts who provide convenient physical, digital, bibliographic, or intellectual access and offer targeted services and programs which the mission of educating, informing or entertaining variety of audiences and the goal of stimulating individual learning and advancing society as a whole;

“library material” means any object intended to store or channel information in textual, graphic, visual, auditory, electronic or other intelligible format such as a book, document, technical report, diskette, cassette, newspaper, review, gazette, map, chart, compact disc, DVD, sheet of letter press, sheet of music, plan, or table separately printed, but does not include a printed form, industrial advertisement, advertiser’s handbill, pricelist or stationery;

“Minister” means the Minister responsible for libraries;

“Ministry” means the Ministry responsible for libraries;

“national library” means any place declared as such by the Minister in terms of section 14 of this Act;

“national library service” means the National Library Services established in terms of section 4 of this Act;

“printed” means produced by any process of reproduction;

“producer” means an individual, company, institution or service provider that generates items for public consumption;

“public library” means a library accessible by the public and funded from a public source;

“published” means issued for distribution by sale or otherwise to the public;

“publisher” means an individual, company, institution or service provider that distributes material by sale or otherwise to the public;

“special library” means a library established to meet a specialised requirement of professional or business groups.

PART II – NATIONAL LIBRARY SERVICE

Objects of the National Library Service.

3. Objects of the National Library Service are to –
 - (a) contribute to socio-economic, cultural, educational, scientific and innovative development;
 - (b) collect, record, preserve and make the national heritage available;
 - (c) promote an awareness and appreciation by fostering information resources; and

- (d) generate, establish and maintain library facilities in order to further the provisions of an efficient library service throughout Lesotho.

Establishment of the National Library Service

4. (1) There is established an institution within the Ministry of Tourism, Environment and Culture to be known as the National Library Service.

(2) The National Library Service shall consist of the National Library and other constituent libraries.

(3) The Minister, acting on the advice of the Board, shall have the power to declare an institution or place a National Library Service and shall cause such declaration to be published in the Gazette.

(4) The Headquarters of the National Library Service shall be –

- (a) situated in Maseru; and
- (b) shall have branches across the country at places to be designated by the Minister by notice published in the Gazette.

Functions of the National Library Service

5. The functions of the National Library Service are to-

- (a) provide professional and technological leadership, coordination, training and guidance in library and information services at national level;
- (b) participate in national and international forums and projects;
- (c) **advise** as a central agency for implementation of national and international standards relating to library work and and practice in Lesotho;
- (d) coordinate, undertake, commission research and consultancy services both locally and internationally to individual libraries and other institutions;

- (e) spearhead the supply, control and optimum use of information, communication technology in libraries and information services;
- (f) establish public library system countrywide;
- (g) promote, support and provide access to information resource; and
- (h) perform any other function which is in accordance with the objectives of this Act.

PART III – ADMINISTRATIVE PROVISIONS

National Library Service Board

6. There is established a board to be known as the National Library Service Board, whose primary objective is to promote the development and use of library and information resource in Lesotho for the benefit of the Basotho nation.

Composition of the Board

7. (1) The Board shall consist of-
- (a) the Principal Secretary of the Ministry responsible for library and archives or his or her representative who shall be Chairperson;
 - (b) the Director of **the** National Library Service, who shall be an ex- officio member and secretary to the Board;
 - (c) a representative of the Library Association;
 - (e) a representative of the Ministry responsible for communication, science and technology;
 - (e) a representative of the Ministry responsible for education and training;
 - (f) a representative of **the** Tertiary Institution **appointed through a competitive or transparent process;**

- (g) a person who has demonstrated interest and commitment to the development of libraries in Lesotho **appointed through a competitive or transparent process;**
- (h) a representative of authors, publishers and book sellers **appointed through a competitive or transparent process;** and
- (i) a representative of school libraries **appointed through a competitive or transparent process.**

(2) The Minister shall appoint members of the Board by notice published in the Gazette.

Functions of the Board

8. (1) The functions of the Board shall be-

- (a) to advise a person or body which manages a library service;
- (b) to advise on which agreements the National Library Service may enter into with authorities or organisations concerned with provision of library or bibliographic services within and outside Lesotho subject to the approval of the Minister;
- (c) to **advise** all things necessary and incidental for the proper and effective functioning of the National Library Service; and
- (d) to perform any other function connected to the National Library Service as the Minister may direct.

(2) The Board shall, in addition to **the** functions referred to in subsection (1), support the information society by-

- (a) facilitating the development and utilization of information resource; and
- (b) coordinating information technology networks through the assistance and consultation with relevant ministries or government departments.

(3) To enable the Board to perform the functions conferred by this Act, the Board may-

- (a) appoint experts to advise the Board on any matter; and
- (b) establish committees and sub-committees to assist the Board in discharging its functions.

(4) The Board shall have the power to issue directives, consistent with this Act, with regard to the manner of convening and the procedures to be followed at meetings of the Legal Deposit Committee or any committee established in terms of this Act.

Tenure of office

9. (1) Subject to subsection (2), a member referred to in subsection 7(1)(c) (f) (g) and (h) shall hold office for a period of three years from the date of appointment and is legible for re-appointment for another term at the expiry of the term of office.

(2) A member of the Board referred to in section 7(1) (c), (f), (g) and (h) shall vacate office if that member-

- (a) is no longer a member or is no longer a member of the institution, body or interest group which nominated that person as a member;
- (b) is declared insolvent;
- (c) is considered physically or mentally incapacitated to discharge his functions properly and effectively under this Act;
- (d) has been convicted of an offence involving dishonesty in Lesotho or elsewhere;
- (e) absents himself from three consecutive meetings of the Board without a reasonable excuse; and
- (f) is found by the Minister to be guilty of misconduct rendering him unfit to discharge his or her functions as a member.

(3) Should any vacancy arise due to circumstances referred to in subsection (2) or for any other reason, the Minister shall appoint another person in accordance with section 7, and the member shall hold office for the remaining

period of office of the member who has vacated office.

Meetings of the Board

10. (1) The Board shall sit at least quarterly or whenever the business of the Board requires.

(2) The Chairperson **or** his representative shall preside at meetings of the Board, and in their absence, a person elected amongst the members of the Board shall preside.

(3) The quorum at meetings of the Board shall be four members.

(4) The Board may invite any person to attend and participate in a meeting of the Board, but that person shall not have a right to vote at such a meeting.

(5) A decision of the majority of members shall be the decision of the Board, and in the event of equality of votes, the Chairperson **or** a member presiding over the meeting shall have a deliberative and casting vote.

(6) A member who has a direct or indirect interest financially or otherwise in any matter under consideration at a meeting of the Board-

(a) shall forthwith disclose the nature and extent of the interest at the meeting; and

(b) may be disqualified from participating in **the** discussion or meeting.

(7) A member who fails to comply with subsection (6) commits an offence and is liable on conviction to a fine of Six Thousand Maloti or six months imprisonment or to both.

(8) The Board may determine its own procedure.

(9) The Secretary to the Board shall cause minutes of the meeting to be recorded.

Allowances

11. A member of the Board, Legal Deposit Committee or any other committee or sub-committee established in terms of this Act, who is not a public officer

shall be paid such allowance as the Board, with the approval of the Minister, acting in consultation with the Minister responsible for finance may determine.

Employees of the National Library Service

12. (1) There shall be appointed from the public service, a Director, who shall be the head of the National Library Service and other officers to assist the National Library Service in the performance of its functions.

(2) The Director shall, subject to this Act, be a professional librarian accredited by a national professional body established in terms of of Lesotho.

(3) The Director shall be responsible for the management and administration of the day to day operation of the National Library Service and may issue directives, guidelines and rules governing the National Library Service.

(4) A member of staff who before the coming into effect of this Act was employed with the National Library under the Ministry, shall be deemed to have been appointed in terms of this Act.

Assets of the National Library Service

13. (1) The Minister shall, at all times remain the custodian of the property and assets earmarked for use by the National Library Service.

(2) The Minister may, in consultation with the Board and with the approval of Cabinet, entrust any moveable or immovable property or part thereof which has been donated or bequeathed to Lesotho, to be in the care of the National Library Service unless the donor or testator has made provision for the care.

National Library

14. (1) The Minister acting on the advise of the Board and by notice published in the gazette, shall designate a place to be the National Library.

(2) The National Library may open branches or departments across Lesotho.

Functions of the National Library

15. The functions of the National Library shall be **to** –

- (a) build up through legal deposit and other means a collection of published, unpublished, semi-published, printed and electronic documents relating or emanating from Lesotho or elsewhere;
- (b) serve as a national bibliographic agency and a reference centre;
- (c) serve as a national centre for conservation of materials emanating from or relating to Lesotho and Basotho;
- (d) administer International Standard Number such as International Standard Book Numbers and International Standard Serial Number); and
- (e) perform any other function which is in accordance with the objectives of this Act.

Constituent Libraries

16. (1) The Minister may, in consultation with the Board and by notice published in the Gazette, establish Constituent Libraries whose functions shall be to-

- (a) collect, organise and provide **library** materials which will meet the needs of the users;
- (b) make information resources available to the users;
- (c) give guidance and advice to users;
- (d) conduct and undertake projects with a view to encourage people to use available library and information resources; and
- (e) give and perform any function or exercise any power which has been authorised by the head of the National Library Service.

PART IV-LEGAL DEPOSIT

Legal Deposit

17. (1) There is established a legal deposit, whose functions shall be to preserve the national literary heritage by facilitating the deposit of published, semi-published and non-published library materials intended for public consumption in selected libraries or institutions in Lesotho.

(2) The Minister acting on the advice of the Board shall declare any library, as a place of deposit by notice published in the Gazette, and shall set the condition under which the place so declared shall operate.

(3) In respect of library material which is intended to be generally available, an author, producer or publisher shall, at his own expense deposit such library material as may be prescribed with the National Library unless exempted under this Act.

(4) An author, producer or publisher shall at his own expense deposit library material as may be prescribed by the National Library unless if exempted under this Act.

(5) The library material referred to in subsection (4) shall be in the prescribed format and quality.

(6) At the request of an author, a producer, publisher, National Library or National Archives, the Minister may, on the advise of the Legal Deposit Committee exempt the author, producer, publisher, National Library or National Archives, of a library material from the provision of this section or vary the conditions of depositing.

(7) After consultation with the Legal Deposit Committee, the Director shall cause retained copies deposited to the national Archives for preservation in terms of subsection (3).

Time deposit

18. (1) **An author, a producer or publisher shall deposit with the legal deposit within thirty days of the library material becoming available or within such extended periods as the Minister may allow.**

(2) Where an author, a producer or publisher fails to comply with

subsection (1), the Director shall give written notice to the publisher requiring him to make deposit at an appropriate place within thirty days of the notice.

(3) A person who fails to comply with the notice in subsection (2) commits an offence and is liable on conviction to a fine **not exceeding Twelve Thousand Maloti** or **imprisonment for a period not exceeding** twelve months or both.

Legal Deposit Committee

19. (1) There is established a sub-committee of the Board to be known as the Legal Deposit Committee which shall consist of –

- (a) the Director of the National Library **Service**;
- (b) **a representative** of the National Archives;
- (c) **a representative** Head of a place of deposit;
- (d) a member of the Board nominated by the Board; and
- (e) a person nominated by an organisation which represents the interests of authors, producers, and publishers in Lesotho.

(2) The nomination referred to in subsection (1) (e) shall be made after consultation with an organisation representing producers, booksellers and publishers.

(3) If the organisation referred to in subsection (2) does not exist, the Board shall nominate an individual who is qualified to represent the interests of publishers or producers in Lesotho.

(4) A member of the Legal Deposit Committee appointed in terms of subsection (1) (e) shall –

- (a) hold office for a period of one year, and shall be eligible for re-appointment; and
- (b) vacate office if the circumstances mentioned in section 9 (2) apply.

Meetings of the Committee

20. (1) The Board shall convene the first meeting of the Legal Deposit Committee and subsequent meetings at such times and places as the Committee may decide.

(2) The Director shall chair at the meeting of the Committee.

Functions of the Legal Deposit Committee

21. The Legal Deposit Committee shall –

- (a) advise or make recommendations to the Board on any matter concerning the **legal deposit** or any matter which has been referred to it by the Board;
- (b) co-ordinate and guide the activity of the place of deposit on any matter concerning a **legal deposit or any matter referred to it by the Board; and**
- (c) advise the Director to reproduce for purposes of preservation an entire work received as legal deposit, subject to copyright law.

Security for return of library articles

22. (1) The Minister shall, in consultation with the Minister responsible for finance, determine the imposition of **levy** or fine, including deposit for the return in good condition of library materials borrowed from any library administered by the National Library Service and the circumstance under which such deposit may be forfeited.

(2) The fines or levies under this section are to include loss and damage of the borrowed library material.

PART V-GENERAL PROVISION

Depository Libraries

23. The Minister may designate a place in Lesotho to be Depository Library.

Regulations

24. (1) The Minister acting **after consultation with** of the Board, may make

regulations for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations which may include –

- (a) control and management of any library administered by the National Library Service and the use of its facilities, including the payment of charges and fees;
- (b) the payment of deposit as security for the return in good condition of library material borrowed from any library administered by the National Library Service and the circumstance in which the deposit may be forfeited;
- (c) the establishment and administration of library committees; and
- (d) any other matter required or permitted to be prescribed under this Act.

General penalty

25. A person who commits an offence under this Act for which no penalty is provided is, liable on conviction, to a fine **not exceeding Twelve Thousand Maloti** or to imprisonment for a period **not exceeding twelve months** or both.

NOTE

¹ Act No. 13 1989

² Act No. 20 of 1966