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ACT NO. 8 OF 2018

Eighth Amendment to the Constitution Act, 2018

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement
2. Amendment of section 40
3. Amendment of section 41

ACT NO. 8 OF 2018

Eighth Amendment to the Constitution Act, 2018

An Act to amend the Constitution of Lesotho, 1993¹.

Enacted by the Parliament of Lesotho.

Short title and commencement

1. This Act shall be cited as the Eighth amendment to the Constitution Act, 2018 and shall come into operation on the date of its publication in the Gazette.

Amendment of section 40

2. Section 40 of the Constitution is repealed and the following is substituted:

“40. (1) A person who marries a citizen of Lesotho shall, upon making application and taking oath of allegiance be registered as a Lesotho citizen after five years of -

- (a) cohabitation in Lesotho; and
- (b) continuous and lawful stay in Lesotho with a citizen of Lesotho.

(2) A person who marries a citizen of Lesotho who, but for his death would have continued to be a citizen of Lesotho under section 37 of the constitution is entitled to be registered as a citizen of Lesotho after five years of continuous and lawful stay in Lesotho.

Amendment of section 41

3. (1) Section 41 of the Constitution is repealed and the following section is substituted:

“41. (1) A citizen of Lesotho may hold citizenship of any other country in addition to his citizenship of Lesotho.

(2) Notwithstanding the provisions of sections 18, 28 and 29 of the Constitution a person who is a citizen of any country who acquires a citizenship of Lesotho by naturalisation or registration -

- (a) is only eligible for social benefits after ten years of being naturalised or registered as a citizen of Lesotho; and
- (b) shall not hold a position which will be specified by an Act of Parliament governing citizenship matters.

(2) After section 41 of the Constitution the following section is inserted:

“Restoration of Lesotho citizenship

41A (1) A citizen of Lesotho who marries a citizen of another country which requires him to renounce his Lesotho citizenship, shall, upon dissolution of marriage, have his citizenship restored if he wishes to become a citizen of Lesotho.

(2) A person who was born a citizen of Lesotho and renounced his citizenship through acquisition of another citizenship, his citizenship shall be restored immediately on the coming into operation of this amendment to the Constitution and his rights and privileges, except those that contradict section 41(3) shall continue to prevail as if he never lost Lesotho citizenship.

(3) A citizen of Lesotho who acquires citizenship in another country shall not hold a position which will be specified by the provisions of the Constitution and any Act of Parliament governing citizenship matters in Lesotho.

(4) For purposes of this section “social benefits” means educational sponsorships, social grants, old age pension or any other benefit which the Minister responsible for citizen matters may determine.”.

NOTE

1. Constitution of Lesotho 1993

GOVERNMENT NOTICE NO. 49 OF 2018

The Parliament of Lesotho**Statement of Objects and Reasons of the
Eighth Amendment to the Constitution Act, 2018**

**(Circulated by authority of the Honourable Minister of Home Affairs
Tsukutlane Au)**

The object of this Bill is to amend the Constitution of Lesotho 1993 in order to provide for marriage to a Lesotho citizen and dual citizenship, and to also provide for the restoration of Lesotho citizenship.

The Bill uplifts the discriminatory provisions which were favouring foreign women married to Lesotho citizens over foreign men who marry Basotho women by providing for similar requirements for acquisition of Lesotho citizenship.

The Bill further removes the Constitutional prohibition on dual citizenship and restoration of Lesotho citizenship with the aim of facilitating the return and reintegration of Lesotho Citizens by birth or ancestry who lost their citizenship. It will also allow naturalised or registered Lesotho citizens to regain or retain their birth nationality.

Moreover, the Bill provides for limitations for citizens of other countries who acquire citizenship of Lesotho through naturalization and registration to be eligible for social benefits after ten years of being naturalised or registered as a citizen of Lesotho. Furthermore, the Bill provides that a naturalised or registered Lesotho citizen shall not hold specified positions as provided for by an Act of Parliament.