

ENVIRONMENT ACT 2001

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ENVIRONMENT ACT 2001

An Act to provide for the management of the environment and all natural resources of Lesotho and for connected matters.

Enacted by the Parliament of Lesotho.

PART I - PRELIMINARY

Short title, commencement and application

1. (1) This Act may be cited as the Environment Act 2001.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the Gazette appoint and the Minister may appoint different dates for the coming into operation of different parts of this Act.

(3) This Act shall bind the State.

Interpretation

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

“air quality” means the maximum concentration of a human produced pollutant permitted in the atmosphere as prescribed under this Act;

“ambient air” means the atmosphere of colourless gases enveloping the earth, but does not include the air within an enclosed structure or within an underground space;

“analysis” means an examination or study of a matter, substance or process for the purpose of determining its composition, qualities or its physical, chemical or biological effect on a segment of the environment and includes an examination of emissions or recordings of noise or sub-sonic vibrations to determine the level of the matter or any other characteristics of the matter, noise or sub-sonic vibration or its effect on a segment of the environment;

“analyst” means a person designated under section 91;

“appointed member” means a member of the Council appointed by the Prime Minister;

“Authority” means the Lesotho Environment Authority established under section 9;

“beneficial use” means a use of the environment in a sustainable manner or an element or segment of the environment in a sustainable manner;

“biological diversity” means the variability among living organisms from all sources including inter alia terrestrial ecosystems and aquatic ecosystems and the ecological habitats of which they are part and includes genetic diversity within species, between species and ecosystems;

“Board” means the Board of the Authority established under section 11;

“Chief Executive” means the Chief Executive appointed under section 17;

“Council” means the National Environment Council established under section 5;

“developer” means the proponent of a development project or activity that is subject to an environment impact assessment process;

“District Development Coordinating Committee” means the District Development Coordinating Committee established under the Local Government Act 19961 ;

“effluent” means waste liquid or any other fluid from domestic, agricultural, trade or industrial sites, treated or untreated and discharged directly or indirectly into the environment or segment of the environment;

“element” means any of the principal constituent parts of the environment including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, fish and wildlife;

“environment” means the physical factors of the surroundings of the human beings including land, water, atmosphere, climate, sound, odour, taste, biological factors of animals and plants and the social factors of aesthetics and includes both natural and the built environment;

“environmental audit” means the systematic, documented, periodic and objective evaluation of how well environmental organisation, management and equipment are performing in conserving the environment and its resources;

“environmental impact assessment” means a systematic examination of a project or activity conducted to determine whether or not that project or activity may have adverse impact on the environment;

“environmental inspector” means a person designated under section 89;

“environmental monitoring” means the continuous determination of actual and potential effects of any project, activity or phenomenon on the environment whether short term or long term;

“environmental planning” means both long-term and short-term planning that takes into account environmental issues;

“environmental resources” means both the renewable or non-renewable resources of the air, land and water including the living resources of flora and fauna and their aesthetical qualities;

“environmental restoration order” means an order provided for under this Act;

“environmentally friendly” means any phenomenon or activity that does not cause appreciable harm or degradation to the environment;

“Fund” means the National Environmental Fund established under section 98;

“genetic resources” means genetic material of actual or potential value;

“handling” includes production, transportation, use, storage, and discharge of toxic hazardous chemicals;

“hazardous substance” means a chemical, waste, gas, liquid, odour, heat, pharmaceutical, plant, animal which is harmful to the environment and includes narcotics and drugs and radioactive materials which are harmful to the environment;

“hazardous waste” means waste which is poisonous, corrosive, noxious, explosive, inflammable, radioactive, toxic or harmful to the environment;

“Line Ministry” means a Ministry, Department, Parastatal or agency in which any law vests functions for the protection, conservation or management of any segment of the environment or whose activities may have an impact on the environment as defined in this Act;

“Minister” means the Minister responsible for environment;

“National Environmental Action Plan” means the plan provided for under section 25;

“noise” means any sound that is likely to be injurious to human health or the environment;

“ozone layer” means the ozone layer defined in the Vienna Convention for the Protection of the Ozone Layer 1985;

“person” includes any company or association or body of persons corporate or unincorporate;

“pollutant” means a substance whether liquid, solid or gaseous which directly or indirectly alters the quality of a segment or element of the receiving environment so as to affect any beneficial use adversely or is hazardous or potentially hazardous to human health or the environment and includes objectionable odours, radio-activity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment;

“polluter-pays principle” means that the cost of cleaning up a segment of the environment damaged by pollution, compensating victims of pollution, cost of beneficial uses lost as a result of an act of pollution and other costs that are connected or incidental to the foregoing,

is to be paid or borne by the person convicted of pollution under this Act or any other applicable law;

“pollution” means an indirect or direct alteration of the physical, thermal, chemical, biological or radio-active properties of a segment of the environment by discharging, emitting or depositing substances or wastes so as -

(a) to affect any beneficial use adversely;

(b) to cause a condition which is hazardous or potentially hazardous to public health, safety, welfare or, to animals, birds, wildlife, fish or aquatic life or to plants;

“precautionary principle” means that where there are threats of damage to the environment, whether serious or irreversible, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

“Prime Minister” means the Prime Minister of Lesotho;

“project” includes both project and policy that leads to projects which have or are likely to have an impact on the environment;

“soil” means an upper layer of earth and includes sand, rock, shales, minerals, vegetation and soil flora, and fauna in the soil and derivatives such as dust;

“standard” means the limits of pollution established under this Act or under the regulations made under this Act or any other law;

“sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystems;

“sustainable use” means present use of the environment or natural resources which does not compromise or impose on the ability to use the same by future generations or degraded the carrying capacity of supporting ecosystems;

“Tribunal” means the Environmental Tribunal appointed under section 109;

“waste” means any substance that may be prescribed as waste or any matter, whether liquid, solid, gaseous, or radio-active, which is discharged, emitted or deposited in the environment in such volume, composition or manner as to cause an alteration of the environment;

“water” means drinking water, water used for domestic and industrial purposes and for animals, plants and includes river, stream, water-course, reservoir, well, dam, canal, channel, lake, swamp, open drain or underground water; and

“wetland” means an area permanently or seasonally flooded by water where plants and animals have become adapted.

PART II - GENERAL PRINCIPLES

Principles of environmental management

3. (1) The Authority shall ensure that the principles of environmental management set out in subsection (2) are observed.

(2) The principles of environmental management referred to in subsection (1) are as follows:

(a) to assure every person living in Lesotho the fundamental right to a clean and healthy environment;

- (b) to ensure that sustainable development is achieved through the sound management of the environment;
- (c) to use and conserve the environment and natural resources of the Basotho Nation for the benefit of both present and future generations, taking into account the rate of population growth and the productivity of available resources;
- (d) to maintain stable and functioning relations between the living and non-living parts of the environment through preserving biological diversity and respecting the principle of optimum sustainable yields in the use of natural resources;
- (e) to reclaim lost ecosystems where possible and reverse the degradation of natural resources;
- (f) to publish data on environmental quality and natural resources;
- (g) to encourage participation by the people of Lesotho in the development of policies, plans and processes for the management of the environment;
- (h) to ensure that waste generation is minimized and safely disposed of;
- (i) to prevent, any interference with the climate and adverse disturbances of the atmosphere and take compensatory measures for any unavoidable interference;
- (j) to take measures to preserve the cultural heritage of the Basotho Nation for the benefit of both present and future generations;
- (k) to establish adequate environmental protection standards and monitor changes in environmental quality;
- (l) to require prior environmental impact assessment of proposed projects or activities which are likely to have adverse effects on the environment or natural resources;
- (m) to ensure that environmental awareness is treated as an integral part of education at all levels;
- (n) to ensure that the cost of environmental abuse or impairment are borne by the polluter; and
- (o) to promote co-operation with other governments and relevant national, international and regional organisations and other bodies concerned with the protection of the environment.

Right to a clean and healthy environment

4. (1) Every person living in Lesotho-

- (a) has a right to a clean and healthy environment; and
- (b) has a duty to safeguard and enhance the environment including the duty to inform the Authority of all activities and phenomena that may affect the environment significantly.

(2) Every person may, where the right referred to in subsection (1) is threatened as a result of an activity or omission which is likely to cause harm to human health or environment, bring action against the person whose activity or omission is likely to cause harm to human health or the environment.

(3) The action referred to in subsection (2) may-

- (a) seek prevention or discontinuance of the activity or omission, which is likely to cause harm to human health or the environment;
- (b) request that the on-going activity be subjected to an environmental audit;
- (c) request that the on-going activity be subjected to an environmental monitoring;
- (d) request that measures to protect the environment or human health be taken by the person whose activity or omission is likely to cause harm to human health or the environment.

(4) The court shall in exercising its jurisdiction, be guided by the following principles of sustainable development-

- (a) the polluter pays principle;
- (b) the precautionary principle;

- (c) the principle of eco-system integrity;
- (d) the principle of public participation in the development policies, plans and processes for the management of the environment; and
- (e) the principle of inter-generational and intra-generational equity.

PART III - INSTITUTIONAL ARRANGEMENTS

Establishment of National Environment Council

5. (1) There is established a body to be known as the National Environment Council.

(2) The Council shall consist of the following:

- (a) the Prime Minister who shall be Chairman and the Deputy Prime Minister who shall be the Vice Chairman;
- (b) the Minister responsible for natural resources;
- (c) the Minister responsible for trade, industry and marketing;
- (d) the Minister responsible for agriculture;
- (e) the Minister responsible for tourism, sports and culture;
- (f) the Minister responsible for works;
- (g) the Minister responsible for development planning;
- (h) the Minister responsible for environment;
- (i) the Minister responsible for health;
- (j) the Minister responsible for education;
- (k) 2 members of the Senate nominated by members of the Senate;
- (l) 2 members of the National Assembly nominated by members of the National Assembly;
- (m) a representative of Lesotho Council of Non-Governmental Organisations appointed by the Prime Minister on the recommendation of non-governmental organisations;
- (n) a representative of the Lesotho Chamber of Commerce and Industry appointed by the Minister on the recommendation of the Lesotho Chamber of Commerce and Industry;
- (o) the Chief Executive of the Authority who shall be the Secretary;
- (p) a representative of the political parties other than the ruling party nominated by political parties;
- (q) a representative of the Christian Council of Lesotho appointed by the Prime Minister on the recommendation of the Christian Council of Lesotho;
- (r) the Minister responsible for local government;
- (s) 2 representatives of the Lesotho National Council of Women appointed by the Prime Minister on the recommendation of the Lesotho Council of Women;
- (t) a representative of the Lesotho Youth Council appointed by the Prime Minister on the recommendation of the Lesotho Youth Council;
- (u) a person who has knowledge and experience in environmental issues appointed by the Prime Minister; and
- (v) the Chairman of the Board.

(3) The Chairman may invite any other Minister to the meetings of the Council when issues of that Minister's department are discussed but such Minister shall not have power to vote.

Tenure of office

6. (1) The appointed members shall hold office for a period of three years from the date of appointment and are eligible for re-appointment upon the expiration of the term of office.

(2) An appointed member shall vacate office if he -

- (a) is unable to exercise the functions of his office;
- (b) has been convicted of a criminal offence and sentenced to imprisonment without the option of a fine;
- (c) is unfit for his duties;
- (d) has been absent from three consecutive meetings of the Council without the permission of the Chairman.

(3) An appointed member of the Council may resign his office by writing to the Prime Minister.

Meetings of the Council

7. (1) The Council shall meet at least 4 times a year and as often as it deems necessary.

(2) Half of the members of the Council shall form a quorum at a meeting of the Council.

(3) The Chairman shall preside at all meetings of the Council and in his absence, the vice chairman shall preside at that meeting.

(4) Any question before the Council at a meeting shall be decided by the majority of the members present and voting, and in the event of an equality of votes the Chairman or the person presiding shall have a casting vote.

(5) The Chairman may invite any person to attend and participate in the discussions of the Council but that person shall not have a right to vote.

(6) The Council may determine its rules of procedure.

(7) The Council shall cause to be kept the minutes of the proceedings of the meetings.

Functions of the Council

8. The Council shall-

- (a) be the supreme body in the formulation of policy for purposes of this Act;
- (b) set national goals and objectives and determine policies and priorities for the protection of the environment;
- (c) promote co-operation among government departments, local authorities, private sector, non-governmental organisations and other organisations engaged in environmental protection programmes;
- (d) promote the harmonization of the plans and policies of the various sectors;
- (e) identify obstacles to the implementation of environmental policy and programmes and ensure implementation of these policies and programmes; and
- (f) promote the integration of environmental considerations in all aspects of socio-economic planning.

Establishment of the Lesotho Environment Authority

9. (1) There is established a body to be known as the Lesotho Environment Authority.

(2) The Authority-

- (a) is a body corporate with perpetual succession;
- (b) shall have power to enter into contracts;
- (c) may acquire, hold and dispose of movable or immovable property;
- (d) may sue or be sued in its corporate name;
- (e) may do or perform any such acts as are necessary or incidental to the attainment of the purposes of the Authority; and
- (f) may perform the duties imposed on it and exercise powers conferred on it by or under this Act.

(3) The Authority shall have a common seal.

(4) The seal of the Authority shall be kept in the custody of the Chief Executive.

(5) The Authority shall be under the general supervision of the Minister.

Functions of the Authority

10.(1) The Authority shall-

- (a) be the principal agency for the management of the environment;
- (b) co-ordinate, monitor and supervise all sectoral activities in the field of environment;
- (c) be responsible for the implementation of the national environmental policy;
- (d) ensure the integration of environmental concerns in national planning through co-ordination with all line Ministries;
- (e) initiate legislative proposals, standards and guidelines on the environment in accordance with this Act;
- (f) review and approve environmental impact assessments and environmental impact statements submitted in accordance with this Act;
- (g) identify projects, activities, policies and programmes or types of projects, policies or activities for which environmental impact assessment must be conducted under this Act;
- (h) undertake research, compile and disseminate information about the environment;
- (i) promote public awareness through formal and non-formal education on environmental management issues;

- (j) mobilize and monitor the use of resources for environmental management;
 - (k) prepare in consultation with the line Ministries and other relevant bodies proposals of the country's environmental policies and formulate implementation strategies for such policies;
 - (l) monitor and assess projects or activities that are being carried out by relevant line Ministries and bodies to ensure that the environment is not damaged by such projects or activities and that environmental management objectives are being adhered to and adequate early warning on impending environmental emergencies is given;
 - (m) undertake in co-operation with relevant line Ministries and relevant bodies programmes intended to enhance public awareness about the need for sound environmental management and secure public support by encouraging efforts made in that regard;
 - (n) publish and disseminate manuals, codes, standards, guidelines or any other material relating to environmental management and prevention or abatement of pollution;
 - (o) render advice and technical support, where possible, to bodies engaged in environment and natural resource management so as to enable them to carry out their responsibilities effectively;
 - (p) advise the Government in the process of negotiating, ratifying or acceding to relevant regional and international environmental agreements;
 - (q) prepare and issue every five years a report on the state of environment in Lesotho;
 - (r) promote and implement co-operation in environment management with similar bodies in other countries and with international bodies concerned with the protection of the environment;
 - (s) collect and make available through publication and other appropriate means and in co-operation with public and private organisations, basic scientific data and other information pertaining to pollution, degradation and environmental protection matters;
 - (t) establish such environmental criteria, guidelines, specifications or standards for the protection of the land, air, water, health and welfare of the population from environmental degradation;
 - (u) establish guidelines and procedures for industrial, agricultural or any other activities in order to minimize damage to environment;
 - (v) establish advisory committees or bodies composed of persons with relevant experience in the field of environmental management;
 - (w) investigate reports of pollution and other related matters;
 - (x) initiate and co-ordinate actions required in a state of environmental emergency or any other situations which may pose a serious threat to the environment and public health; and
 - (y) carry out such other functions as may be required by the Council or as may be incidental or conducive to the exercise by the Authority of any or all the functions provided under this Act.
- (2) The Authority may in the performance of its functions under subsection (1) delegate by notice published in the Gazette, any of its functions to a Line Ministry, the Technical Advisory Committee or any public officer.

The Board of Directors

11.(1) The governing body of the Authority shall be a Board of Directors.

(2) The Board shall consist of-

- (a) the Principal Secretary of the Ministry responsible for environment, who shall be the Chairman;
- (b) the Principal Secretary of the Ministry responsible for local government;
- (c) the Chief Executive appointed under section 17 who shall be an ex-officio member; and

(d) four other members.

(3) Members referred to in subsection (2)(d) shall be appointed by the Minister and shall hold office for a period of 3 years and shall be eligible for reappointment at the expiration of their term of office.

(4) A person shall not be appointed to be a member of the Board unless he has had experience and shown capacity in managerial, environmental or financial matters.

(5) A member of the Board shall vacate office if he-

(a) accepts or continues to hold office as an auditor of the Authority;

(b) accepts or continues to hold office or employment with the Authority;

(c) becomes bankrupt;

(d) becomes of unsound mind or otherwise becomes incompetent to act as a member due to physical disabilities or infirmity of mind;

(e) has been convicted of an offence and sentenced to imprisonment without the option of a fine;

(f) has been absent from three consecutive meetings of the Board without the permission of the Chairman; or

(g) resigns his office by written notice to the Minister.

(6) Subsection 5(b) does not apply to the Chief Executive.

(7) The Minister may terminate the appointment of a member, other than the Chairman, Principal Secretary and the Chief Executive, if it is necessary in the interest of the effective performance of the functions of the Authority under this Act.

(8) The Minister shall publish every appointment or termination of appointment under this section by notice in the Gazette.

Vacancy

12. If an appointed member dies, resigns, or otherwise vacates his office before the expiry of the term for which he was appointed, another person shall be appointed by the Minister at the earliest opportunity to fill the vacancy.

Meetings of the Board

13.(1) The Board shall meet as often as the business of the Authority may require, but in any case not less than four times in each financial year.

(2) The Chairman shall preside at all meetings of the Board and in his absence the members present shall elect one of their number to preside.

(3) Any questions before the Board at a meeting shall be decided by the majority of votes of the members present and voting.

(4) A presiding member shall have a deliberative vote and in the event of an equality of votes, he shall have a casting vote.

(5) The quorum at a meeting of the Board shall be five members.

(6) Subject to this section, the Board may regulate its own procedure.

(7) The validity of any act or proceedings of the Board shall not be affected by any vacancy among the members or by any defect subsequently discovered in the appointment of a member or by reason that some person who was not entitled to do so took part therein.

Functions of the Board

14. The functions of the Board shall be-

- (a) to oversee the implementation and successful operation of the policy and functions of the Authority;
- (b) to provide guidance to the Chief Executive;
- (c) to approve the annual budget and plans of the Authority; and
- (d) to establish and approve rules and procedures for the appointment, discipline, termination and terms and conditions of service of the staff of the Authority.

Allowance of members of the Board, Technical Advisory Committee and the Council

15. A member of the Board, Technical Advisory Committee and an appointed member of the Council shall be paid such expenses and allowances as may be determined by the Minister after consultation with the Minister responsible for Finance.

Disclosure of interest

16. (1) A member of the Board who has any direct or indirect interest in any matter being considered or dealt with by the Board shall as soon as possible after the commencement of the meeting disclose to the Board the nature of that interest, and such disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board with respect to the matter.

(2) A member who fails to disclose his interest under subsection (1) shall be removed from the Board.

Appointment of the Chief Executive

17. (1) There shall be a Chief Executive of the Authority who shall be appointed by the Minister on such terms and conditions as the Minister, on the advice of the Board may determine.

(2) The Chief Executive shall hold office for a period of five years and shall be eligible for re-appointment.

(3) The Chief Executive shall have such training and experience as may be prescribed.

(4) The Chief Executive shall cease to hold office if-

- (a) he resigns; or
- (b) he is removed from office by the Minister on the advice of the Board for-
 - (i) gross misconduct; or

- (ii) inability to discharge the functions of his office whether arising from infirmity of body or mind or for any other cause.

Functions of the Chief Executive

- 18. The Chief Executive shall be responsible for-
 - (a) the execution of the policy of the Authority and the transaction of its day to day business;
 - (b) the management of funds and property of the Authority; and
 - (c) for the administration, organisation, and general control of the staff of the Authority.

Staff of the Authority

19. (1) The Board may on the advice of the Chief Executive appoint other officers and employees of the Authority.

(2) Public officers may be transferred or seconded to the Authority.

(3)The Board on the advice of the Chief Executive shall, from time to time, determine the terms and conditions of service of the officers and employees of the Authority.

(4)The Authority shall pay to its officers and employees such remuneration and allowances as the Board may determine.

(5)The officers and employees of the Authority shall be under the administrative control of the Chief Executive.

(6) The Authority may engage the services of such experts and consultants as the Board may determine.

Technical Advisory Committee

20.(1) There is established the Technical Advisory Committee which shall be an advisory body to the Authority.

(2)The Technical Advisory Committee shall be composed of eight members whose experience shall reflect the various fields of environmental management.

(3)The members of the Technical Advisory Committee shall be appointed by the Minister on the advice of the Chief Executive and shall serve in a personal capacity for such a period and on such terms and conditions as may be specified by the Minister..

(4) A member of the Technical Advisory Committee may at any time resign his position in writing addressed to the Chief Executive.

(5) Whenever a vacancy arises on the Technical Advisory Committee due to any cause, such a vacancy shall be filled in accordance with subsection (3) of this section.

Functions of the Technical Advisory Committee

21. The Technical Advisory Committee shall advise the Authority on any issue, which may be referred to it, and in particular, it shall-

- (a) examine any scientific issues which may be referred to it by the Authority or any Line Ministry relating to the protection and management of the environment and shall recommend to the Authority or the Line Ministry, as the case may be, such action as is necessary for achieving the objectives of this Act;
- (b) review and advise the Authority on any environmental plans, environmental impact assessments of major projects and activities specified in the Schedule to this Act;
- (c) review and advise the Authority on any environmental standards, guidelines; regulations made pursuant to this Act; and
- (d) review the achievement by the Authority of any goals and targets set by the Authority; and advise the Authority;
- (e) perform such other technical advisory services to the Authority as are necessary.

Proceedings of the Technical Advisory Committee

22. (1) The Chief Executive shall be Chairman of the Technical Advisory Committee.
- (2) The Technical Advisory Committee shall meet at such times and such places as the Chairman may appoint.
- (3) The Technical Advisory Committee may, where it deems it necessary, invite any person to attend and participate in the meetings of the Committee provided that such a person shall not have a right to vote at such a meeting.
- (4) The Chief Executive shall designate from among the staff of the Authority, a Secretary to the Technical Advisory Committee.
- (5) Subject to the provisions of this Act, the Technical Advisory Committee shall adopt its own procedure.

Working Groups

23. (1) Where a matter requires specialized technical consideration, the Board on the advice of the Chief Executive may establish a Technical Working Group for the purpose.
- (2) The Technical Working Group shall advise the Authority and shall conduct its affairs in accordance with the powers and procedures laid down in the instrument appointing it.

Role of Line Ministries and establishment of environmental units

24. (1) Each Line Ministry shall establish an environmental unit that shall have such functions, duties and powers as the Line Ministry shall assign to it, which shall include,
- (i) responsibility for assuring compliance by that Line Ministry with the requirements of this Act; and
 - (ii) liaison with the Authority on matters involving environment and all matters with respect to which co-operation or shared responsibility is desirable or required under this Act.

(2) Each Line Ministry shall carry out its functions and duties in connection with the environment as prescribed in any law provided that such law does not conflict with the provisions of this Act.

(3) A Line Ministry charged with the management of any segment of the environment under any law shall submit to the Authority-

- (a) an annual report concerning the state of that segment of the environment and the measures taken by that Line Ministry to maintain or improve the environment; and
- (b) through its environmental unit such other report as may be required by the Authority.

(4) A Line Ministry shall report as soon as practicable to the Authority through its environmental unit any contravention of any environmental law relating to its sphere of responsibility.

(5) Where a Line Ministry suspects or detects any contravention of an environmental law beyond its sphere of responsibility, it shall through its environmental unit forthwith inform the Chief Executive and the relevant Line Ministry.

PART IV - ENVIRONMENTAL PLANNING

Environment planning at national level

25.(1) The Authority shall, in every five years, prepare, in consultation with the Line Ministries, a National Environmental Action Plan, which shall be submitted, to Cabinet for consideration and approval.

(2) The National Environmental Action Plan shall -

- (a) be the basis for national environment planning and implementation of development programmes;
- (b) provide general guidance for the management and protection of the environment and natural resources of Lesotho;
- (c) identify the principal environmental problems facing Lesotho;
- (d) recommend methods for building national awareness on the importance of sustainable use of the environment and natural resources for national development;
- (e) take into account District Environment Action Plans as provided for under section 26;
- (f) identify and recommend policy and legislative approaches for preventing, controlling or mitigating specific as well as general adverse impacts on the environment;
- (g) be disseminated to the public; and
- (h) provide for any other matter that the Authority may prescribe.

(3) The National Environment Action Plan shall be binding on all Government Ministries, parastatals, non-governmental organisations, public agencies, companies, body corporate and all persons.

Environmental planning at district level

26. (1) A District Development Coordinating Committee shall in consultation with the Authority and in addition to its existing role -

- (a) prepare every five years, a District Environment Action Plan;
- (b) coordinate the activities of Line Ministries in the protection and management of the environment and conservation and sustainable utilisation of natural resources in the district; and
- (c) promote and disseminate information relating to the environment through public awareness programmes and prepare reports on the state of the environment in the district every five years.

(2) The District Environmental Action Plan shall-

- (a) be in conformity with the National Environmental Action Plan;
- (b) identify environmental problems in the district in question and shall be binding on all district local communities, and persons within the district;
- (c) be disseminated to the public; and
- (d) contain such matters as may be prescribed for under this Act.

(3) A District Development Coordinating Committee shall -

- (a) report to the Authority on all matters relating to the environment and conservation and utilisation of natural resources in the district under its jurisdiction; and
- (b) submit such reports as the Authority may require.

PART V - ENVIRONMENT IMPACT ASSESSMENT, AUDIT AND MONITORING

Types of projects for which an environment impact assessment is required

27. (1) An environment impact assessment shall be undertaken on projects and activities specified in the Schedule to this Act.

(2) The Minister may, on the recommendation of the Authority, by notice published in the Gazette, amend the Schedule to this Act.

Submission of a project brief

28. (1) A developer shall, prior to commencing, carrying out, executing or conducting a project or activity specified in the Schedule, submit to the Authority and the relevant Line Ministry a project brief stating-

- (a) the nature of the project;
- (b) the activities that shall be undertaken;
- (c) the possible products or by-products anticipated and their environmental consequences;
- (d) the number of people the project shall employ;
- (e) the area of land, air or water that may be affected;
- (f) any other matters that may be prescribed;

(g) and such other matters as the Authority may in writing require from the developer or any other person who the Authority reasonably believes has information relating to the project.

(2) Where, upon examining the project brief, the Authority considers that further information is required to be stated in the project brief before an environmental impact assessment is conducted, the Authority shall require the developer, in writing, to provide such further information as the Authority deems necessary.

(3) If after considering the project brief, the Authority, in consultation with the Line Ministry is of the view that the proposed project will not have any significant impact on the environment, it may approve the project or activity.

(4) The Authority may, after considering the project brief in consultation with the Line Ministry, require that an environmental impact study be made in accordance with the provisions of this Act, if it is of the opinion that the project is likely to have significant impact on the environment.

(5) The Authority shall, where it is of the view that the project or activity is likely to have significant impact on the environment invite written or oral comments from the public thereon and where necessary may consult the community of the areas where the proposed project will be situated, of the proposed project and the contents of the project brief.

Environmental impact studies and statements

29. (1) Where the Authority has determined in accordance with section 28 that an environmental impact study should be undertaken, the developer shall make an environmental impact statement on the completion of the study.

(2) The developer shall within 14 days of completing the environmental impact study submit the environmental impact statement relating to the study to the Authority and the relevant line Ministry.

(3) The environment impact statement shall be open for public inspection and may be inspected on payment of the prescribed fees by any person at a place and time to be determined by the Authority.

(4) The Authority shall prepare guidelines concerning the conduct of environmental impact studies and the preparation of environmental impact statements.

(5) Without prejudice to the generality of what may be included in an environmental study conducted according to subsection (4) of this section, the environmental impact statement shall provide for the following-

- (a) a detailed description of the proposed project or activity and of activities it is likely to generate;
- (b) a description of the potentially affected environment including specific information necessary for identifying and assessing the environmental effects of the proposed project or activity;
- (c) a description of the technology, method and processes that shall be used in the implementation of the project or activities and the main alternatives and reasons for declining to use those alternatives;
- (d) reasons for selecting the proposed site and rejecting alternative sites;
- (e) environmental impact of the proposed activity or project including the direct, indirect, cumulative, short term or long term effects on the environment of the project;

- (f) an identification and description of measures proposed for eliminating, minimizing or mitigating the anticipated adverse effects of the project or activity on the environment;
- (g) an indication of whether the environment of any other State or area beyond the limits of national jurisdiction is likely to be affected and the mitigating measures to be undertaken;
- (h) a brief description of how the information provided for in this section has been generated;
- (i) an identification of gaps in knowledge and uncertainties which were encountered in completing the required information;
- (j) the social, economic and cultural effects the project is likely to have on people and society;
- (k) the irreversible and irretrievable commitment of resources which will be involved by the project if implemented in the manner proposed by the developer; and
- (l) any other matters that the Authority may prescribe.

(6) Experts whose names and qualifications are approved by the Authority after consultation with the relevant Line Ministry shall undertake an environmental impact study.

(7) Costs of conducting the environmental impact study shall be borne by the developer.

(8) The Authority may make guidelines for the making of preliminary environmental assessment to determine whether an environmental impact study should be made.

Review of Environmental impact statements

30. The Authority shall, on receipt of the environmental impact statement submitted to it in accordance with section 29 and in consultation with the Line Ministry study the environmental impact statement and if it deems it proper in its form and content shall-

- (a) invite public comments on the environment impact statement in general;
- (b) invite the comment of those persons who are most likely to be affected by the proposed project by specifically drawing their attention to the environmental impact statement;
- (c) consider the environmental impact statement and all the comments made;
- (d) require the holding of a public hearing for persons most likely to be affected by the proposed project or activity if he deems it necessary;
- (e) approve the project or activity after consultation with the relevant Line Ministry if it is satisfied that the project or activity shall not result in significant damage to the environment;
- (f) require that the developer to redesign the project or do such other thing as the Authority considers necessary, taking into consideration the suggestions or comments made and all environmental factors; or
- (g) reject the project where it is of the opinion that the project may cause significant and irreversible damage to the environment.

Environmental monitoring

31. (1) The Authority shall, in consultation with the relevant Line Ministry monitor -

- (a) all environmental elements with a view of making an assessment of a possible change in the environment and their possible environmental impacts;
- (b) the operation of an industry, project or activity with a view to determining its immediate and long-term effects on the environment; and
- (c) the operation of all projects in existence at and after the commencement of this Act with a view of determining whether they comply with the provisions of this Act.

(2) The Authority, where it determines that the project does not comply with the provisions of this Act, require that the developer of a project or activity take remedial measures in a manner and within such time as Authority may determine.

(3) An environmental inspector may enter upon any land or premises for the purpose of monitoring environmental effects upon the environment or any activities that are carried out on that land or premises.

Environmental audit

32. (1) The Authority shall, in consultation with the relevant Line Ministry, be responsible for carrying out periodic environmental audit of activities or projects that are likely to have adverse effects on the environment.

(2) The Authority may require-

- (a) the holder of an environmental impact assessment licence;
- (b) the operator or developer of a project or activity for which an environmental impact statement has been made; or
- (c) a person who has legal right in land or the owner of the premises where a project or activity for which environmental impact statements has been made, to keep and submit to the Authority reports on how far the project or activity conforms in operation with the terms and conditions of the licence at such periods as the Authority deems necessary.

(3) An environmental inspector may enter any land or premises for the purposes of determining how far the activities carried out on that land or premises conform with the statements made in the environmental impact statement issued in respect of that land or those premises.

(4) A person who has a legal right in the land or the owner of the premises or a developer of a project or activity for which an environmental impact statement has been made, shall take all reasonable measures to mitigate undesirable effects not contemplated in the environmental impact statement and shall report those measures to the Authority annually or whenever the Authority requires.

Environmental impact assessment licence and record of decision

33. (1) No person shall operate, execute or carry out a project or activity specified in the Schedule without an environmental impact assessment licence issued by the Authority.

(2) The Authority may, if it is satisfied that the environmental impact statement is adequate, issue an environmental impact assessment licence on the terms and conditions appropriate and necessary to facilitate sustainable development and sound environmental management.

(3) The Authority shall, in issuing or refusing to issue a licence under this section, issue a record of decision which shall include,

- (a) the decision of the Authority;
- (b) key factors of that decision including responses to material issues raised by any person during the environmental impact assessment process;
- (c) the date of the decision;
- (d) a copy of the environmental impact assessment licence if issued;
- (e) information with respect to the right of any person to seek reconsideration of the decision of the Authority and how such reconsideration may be sought.

(4) No licensing authority appointed under any other law shall issue a licence or permit by virtue of any law with respect to a project or activity for which environmental impact assessment may be required unless the application for a licence is accompanied by an environmental impact assessment licence issued under this Act, or the Authority has certified in writing that an environmental impact assessment is not required under this Act.

(5) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(6) A person aggrieved by the decision of the Authority to issue or refuse to issue a licence under this section may, within 30 days of being informed of that decision, request in writing setting forth the reasons of his request that, the Authority reconsider its decision.

(7) The Authority shall within 30 days of receipt of a written request for reconsideration under this section, issue a decision affirming, modifying or reversing its earlier decision. The decision of the Authority shall become part of the record of decision.

Submission of environmental impact assessment report after issue of environmental impact assessment licence

34.(1) The Authority may, after the issue of an environmental impact assessment licence, direct the holder of a licence to submit fresh environmental impact statement, where-

- (a) there is a substantial change or modification in the project or in the manner in which the project is being operated; or
- (b) the project poses environmental threat, which could not be reasonably foreseen at the time of the first study.

(2) A person being a holder of an environmental impact assessment licence who fails to comply with the direction issued under subsection (1)-

- (i) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100, 000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both; and
- (ii) his environmental impact assessment licence shall be canceled.

Transfer of environmental impact assessment licence

35.(1) The holder may transfer an environmental impact assessment licence to another person only in respect of the project in relation to which the licence was issued.

(2) Where the licence referred to in subsection (1) is transferred, the person to whom it was issued to and the person to whom it is transferred to, shall jointly and in writing notify the Authority of the transfer, within 30 days of the transfer.

(3) The holder of the licence shall, where no joint notification of a transfer is given be deemed for the purposes of this Act to be the owner or the person having charge, or management or control of the project.

(4) A transfer of an environmental impact assessment licence shall be effective from the date the Authority is notified of the transfer.

(5) No person shall transfer an environmental impact assessment licence contrary to the provisions of subsections (1), (2) and (3).

(6) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

PART VI - ENVIRONMENTAL QUALITY STANDARDS

Water quality standards

36. (1) The Authority shall, in consultation with the relevant Line Ministry-
- (a) establish criteria and procedures for the measurement of water quality;
 - (b) establish minimum water quality standards for all the waters of Lesotho and for the following different uses-
 - (i) drinking water;
 - (ii) water for industrial purposes;
 - (iii) water for agricultural purposes;
 - (iv) water for recreational purposes;
 - (v) water for fisheries;
 - (vi) water for wildlife; and
 - (vii) any other water uses which may be prescribed;
 - (c) determine conditions for the discharge of effluents into the aquatic environment;
 - (d) make guidelines for the preservation of fishing areas, aquatic areas, and other areas where water may need special protection;
 - (e) identify areas of research and initiate or commission research on the effects of water pollution on the environment, human beings and fauna and flora;
 - (f) order or carry out investigations of actual or suspected water pollution including the collection of data;
 - (g) document the analytical methods by which water quality and pollution control standards can be determined;
 - (h) collect, maintain and interpret data from industries and local authorities on the pre-treatment nature and levels of effluents;
 - (i) prescribe measures for the treatment of effluent before discharging it into the sewerage systems;
 - (j) establish standards for the discharge of effluent into waters of Lesotho;
 - (k) recommend the undertaking by a plant operator, of works necessary for the treatment of effluent before it is discharged into the waters; and
 - (l) do or perform anything or act necessary for the monitoring and control of water pollution.
- (2) The Authority may in consultation with the relevant Line Ministry, prescribe different quality standards to apply in different areas of Lesotho with respect to different segments of the environment and the Authority may, from time to time, vary such standards.

Air quality standards

37. (1) The Authority shall, in consultation with the relevant Line Ministry-
- (a) establish criteria for the measurement of air quality;

- (b) establish-
 - (i) ambient air quality standards;
 - (ii) occupational air quality standards;
 - (iii) emission standards for various sources;
 - (vi) criteria and guidelines for air pollution control for both mobile and stationary sources; and
 - (v) any other air quality standards, which may be prescribed from, time to time;
 - (c) take measures to reduce existing sources of air pollution by requiring the redesign of plants or the installation of new technology or both in order to meet the requirements of standards established under this section;
 - (d) make guidelines to minimize emissions of green house gases and identify suitable technologies to minimize air pollution;
 - (e) consider the rate of emission concentration and nature of pollutants emitted;
 - (f) consider the best practicable technology available in controlling pollutants during the emission process;
 - (g) determine the analytical technology available in controlling pollutants during the emission process;
 - (h) order or carry out investigations of actual or suspected air pollution including pollution produced by aircraft, motor vehicles, factories and power generating stations;
 - (i) order an industry or any other source of air pollution to file returns and provide any information as it may require; and
 - (j) do any other thing, which may be necessary for the monitoring and controlling of air pollution.
- (2) No person shall emit or cause to emit a substance, which causes air pollution in contravention of emissions standards, established under this Act.
- (3) A person who contravenes the provisions of subsection (2) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.
- (4) A person who is convicted under subsection (3) shall in addition to a fine or imprisonment-
- (a) pay the costs which may be incurred by any Line Ministry or the Authority in the restoration of the environment damaged or destroyed as a result of the emission; and
 - (b) pay the costs incurred by a third party in the form of reparation, restoration, restitution or compensation as may be determined by a court of law.

Standards for waste

38. The Authority shall, in consultation with the relevant Line Ministry-

- (a) prescribe standards for waste, waste classification and analysis and formulate and advise on standards of disposal methods and means for such waste;
- (b) issue guidelines for the handling, storage, transportation, segregation and destruction of hazardous waste;
- (c) identify materials and processes that are dangerous to human health and the environment; and
- (d) issue guidelines and prescribe measures necessary for the management of the materials and processes identified under paragraph (c).

Soil quality standards

39. (1) The Authority shall, in consultation with the relevant Line Ministry-

- (a) establish-
 - (i) criteria and procedures for the measurement and determination of soil quality;
 - (ii) minimum standards for the management of the quality of the soil;
- (b) issue guidelines for-
 - (i) the disposal of any substance in the soil;
 - (ii) the optimum manner for the utilization of any soil;
 - (iii) the identification of the various soils;
 - (iv) the practices that will conserve the soil; and
 - (v) the prohibition of practices that will degrade the soil;
- (c) do any other thing necessary for the monitoring and controlling of soil degradation.

(2) No person shall use or dispose of soil contrary to the established standards for the management of the quality of soil or guidelines issued pursuant to this section.

(3) A person who contravenes the provisions of subsection (2) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Standards for noise

40.(1) The Authority shall, in consultation with the relevant Line Ministry-

- (a) set minimum standards for emissions of noise and vibration pollution into the environment;
- (b) establish criteria and procedures for the measurement of noise and vibration pollution into the environment from existing and future sources;
- (c) establish criteria and procedures for the measurement of sub-sonic vibrations;
- (d) issue guidelines for the minimization of sub-sonic vibrations referred to in paragraph (b);
- (e) establish standards for the emission of sub-sonic vibrations, which are likely to have significant impact on the environment;
- (f) establish noise levels and noise emission standards applicable to construction sites, plants, machinery, motor vehicles, aircraft including sonic boom, industrial and commercial activities;
- (g) supply appropriate measures to ensure the abatement and control of noise from sources referred to in paragraph (f);
- (h) measure the levels of noise emanating from sources referred to in paragraph (f); and
- (i) establish guidelines for the abatement of unreasonable noise or vibration pollution emitted into the environment from any source.

(2) The measurement of the levels of noise emanating from sources referred to in paragraph (f) shall be given to the owner or occupier of the premises from which the noise is emanating.

Standards for ionization and other radiation

41. The Authority shall, in consultation with the relevant Line Ministry-

- (a) establish the standards for the minimization of ionizing and other radiation in the environment;

- (b) establish criteria and procedures for the measurement of ionizing and other radiation;
- (c) request inspection and examination of an area, place or premises or vehicle or any vessel in or upon which the Authority has reasonable cause to believe that radioactive material or any source of ionizing radiation is stored, leased, transported or disposed of;
- (d) where there is reasonable cause to believe that a person is-
 - (i) contaminated with radioactive material, or
 - (ii) in unlawful possession of an ionizing radiation source,request that the person be examined;
- (e) collect information which the Authority must disseminate to the public in order to warn and protect the public in case of actual or potential public exposure to radioactive material, ionizing radiation or the environment;
- (f) conduct an ionizing radiation control and protection measures; and
- (g) do all things necessary for the monitoring and control of pollution from radiation.

Standards for the control of noxious smells

42. The Authority, shall in consultation with the relevant Line Ministry establish-
- (a) procedures for the measurement and determination of noxious smells;
 - (b) minimum standards for the control of pollution of the environment by noxious smells; and
 - (c) guidelines for measures for the abatement of obnoxious smells, whether from human activities or from naturally occurring phenomena.

Guidelines for environmental disasters

43. The Authority shall, in consultation with the relevant Line Ministry, prepare guidelines for the management of environmental disasters including-
- (a) major oil spills and gas leakages;
 - (b) spills of hazardous substances;
 - (c) industrial accidents;
 - (d) natural disasters including floods, droughts and major pests infestation, or other intrusion of alien species of fauna and flora; and
 - (e) fire.

Other standards

44. The Authority shall in consultation with the relevant Line Ministry-
- (a) establish standards for-
 - (i) buildings and other structures;
 - (ii) industrial products;
 - (iii) materials used in industry, agriculture and for domestic uses;
 - (iv) solid waste; and
 - (v) such other matters and activities that may affect the environment; and
 - (b) establish criteria and procedures as it may consider necessary for the determination of the standards referred to in paragraph (a).

PART VII - POLLUTION CONTROL

Prohibition of discharge of hazardous substances, chemicals and materials or oil into the environment and spillers liability

45. (1) No person shall discharge any hazardous substance, chemical, oil or mixture containing oil in any waters or any other segment of the environment except in accordance with guidelines prescribed by the Authority in consultation with the relevant Line Ministry.

(2) A person who discharges a hazardous substance, chemical, oil or mixture containing oil into any waters of other segment of the environment contrary to subsection (1) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(3) Upon conviction, the person discharging a hazardous substance, chemical, oil or a mixture containing oil into the environment may, in addition to any other sentence imposed by the court-

- (a) pay the cost of the removal, including any costs which may be incurred by the Authority or any Government agency or organ in the restoration of the environment damaged or destroyed as a result of the discharge; and
- (b) the cost of the third parties in the form of reparation, restoration, restitution or compensation as may, from time to time, be determined by a court of law.

(4) The owner or operator of a production or storage facility, motor vehicle or vessel from which a discharge occurs contrary to this section shall mitigate the impact of the discharge by-

- (a) giving immediate notice of the discharge, to the Authority and other relevant Line Ministries;
- (b) immediately commencing clean-up operations using the best available clean-up methods;
- (c) complying with such directions as the Authority may, from time to time, prescribe.

(5) The Authority may seize the production facility, motor vehicle or vessel until the owner or operator takes mitigation measures.

(6) The Authority may dispose of production or storage facility, vessel or motor vehicle seized in accordance with subsection (5) to meet the cost of clean-up and restoration measures where the owner, after a passage of a reasonable time, fails to take the necessary measures.

Prohibition of pollution

46.(1) No person shall pollute or permit any other person to pollute the environment in excess of any standards or guidelines established under this Act.

(2) A person who pollutes or permits any other person to pollute the environment in excess of any standards and guidelines established under this Act commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(3) A person who pollutes or permits any other person to pollute the environment otherwise than in accordance with this Act may be required by the Authority to clean-up, remove or dispose of the pollutant in such manner and within such period as the Authority shall direct.

(4) In addition to any sentence that may be imposed upon a polluter under subsection (2), the court may require such person to-

- (a) to pay the full cost of cleaning up the environment and of removing the effects of the pollution; or
- (b) to clean up the environment and remove the effects of the pollution.

(5) Without prejudice to the provisions of subsections (2) and (3), the court may also require the polluter to meet the costs of the pollution to third parties through compensation, restoration or restitution.

Water pollution prohibited

47. (1) No person shall discharge any poisonous, toxic, exotoxic, obnoxious, or any matter which is likely to cause harm to human health or aquatic environment into any waters.

(2) A person who discharges or permits any person to discharge into the waters of Lesotho, contrary to the water pollution standards established under this Act, a poisonous, toxic, exotoxic, obnoxious, obstructing or any matter which is likely to cause harm to human health or aquatic environment commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(3) Subsections (1) and (2) shall not apply to a substance discharged into any water in Lesotho for purposes of treating the water or aquatic life.

(4) A person who is convicted under subsection (1) shall, in addition to a fine stipulated in that subsection-

- (a) pay the costs incurred by the Authority or Line Ministry for the restoration of the environment damaged or destroyed as a result of his activities; and
- (b) pay the costs incurred by a third party in the form of reparation, restoration, restitution or compensation as may be determined by a court of law.

Effluents to be discharged only into sewerage system and effluent discharge licence

48. (1) A person who owns or operates a trade or industrial undertaking shall discharge any effluent or other pollutants originating from the trade or industrial undertaking into a sewerage system.

(2) A person who, at the commencement of this Act, owns or operates a trade or industrial undertaking shall, within 3 months of the coming into operation of this Act discharge any effluent or other pollutants originating from the trade or industrial undertaking into the sewerage system.

(3) A person who owns or operates a trade or industrial undertaking shall, before discharging any effluents or pollutants into the sewerage system apply in writing to the Authority for a licence to discharge the effluents or pollutant into the sewerage systems.

(4) An effluent licence shall be valid for a period of one year from the date of issue.

(5) For every issue or renewal of an effluent discharge licence the licensee shall pay to the Authority a prescribed fee.

(6) A person who contravenes the provisions of subsections (1), (2) and (3) commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(7) The Minister may, by notice published in the Gazette, prescribe such fees as he deems necessary for the monitoring, cleaning up, removing or disposing of pollutants discharged or emitted in the environment.

Duty to supply information to environmental inspectors

49. (1) A person who owns or operates an irrigation project scheme, sewerage system, industrial production plant, workshop or any other undertaking which discharges or is likely to discharge effluents or other pollutants into the environment shall submit to the Authority or environmental inspector accurate information about the quality of such effluent or other pollutants.

(2) A person who at the commencement of this Act owns or operates an irrigation project scheme, sewerage system, industrial production plant, workshop or any undertaking which discharges or is likely to discharge effluents or other pollutants into the environment shall within 3 months of the coming into operation of this Act submit to the Authority or an environmental inspector accurate information about the quality and quantity of such effluent or other pollutants.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Cancellation of effluent discharge licence

50. The Authority may, in consultation with the Line Ministry and in writing, cancel an effluent discharge licence-

- (a) if the holder of the licence contravenes the provisions of this Act or regulations made pursuant to this Act;
- (b) if the holder fails to comply with any conditions specified in the licence; or
- (c) if the Authority considers it in the interest of the environment or in the public interest.

Register of effluent discharge licence

51. (1) The Authority shall maintain a register of all effluent discharge licences issued under this Act.

(2) The register shall be a public document and may be inspected at any reasonable time by any person and on the payment of the prescribed fees.

Pollution licence

52. (1) No person shall carry out any project or activity, which is likely to pollute the environment in excess of any standards or guidelines issued under this Act unless he is in possession of pollution licence.

(2) A person who, at the commencement of this Act is carrying on a project or activity which is likely to pollute the environment in excess of any standards or guidelines prescribed under this Act shall, within 3 months of the coming into operation of this Act apply for a pollution licence.

(3) An application for a pollution licence shall be made in writing to the Authority in the prescribed form.

(4) An application for a pollution licence shall be accompanied by the prescribed fee.

(5) A pollution licence shall be in a prescribed form and subject to conditions as may be prescribed or specified in the licence.

(6) The Authority shall, where it rejects an application for a pollution licence, state in writing the reasons for rejecting the application.

(7) A pollution licence shall be valid for a period of one year from the date of issue.

(8) The Authority shall before issuing a pollution licence-

- (a) consider the possible effects of the emission on the quality of ambient air;
- (b) consider existing licences affecting the same air resource;
- (c) give due regard to the requirements of the residents, human settlements and other industrial and commercial activities;
- (d) solicit the comments of local authorities and concerned Ministries or organisations;
- (e) where the information accompanying the application appears inadequate, require the applicant to furnish further information relating to the project or activity in question, its location, materials, technology design or other appropriate matters; or
- (f) where it appears necessary to conduct an environmental impact assessment study, require the applicant to conduct an environmental impact assessment study in respect of that project or activity.

(9) The fee to be charged under this section shall be determined in accordance with the polluter pays principle referred to in section 4.

(10) A person contributing the greater amount of pollution shall bear the largest burden in paying for cleaning the environment.

Emissions by conveyance

53. 1)A person who-

- (a) owns or operates a motor vehicle, train, boat or aircraft or any similar conveyance shall not operate it contrary to the established emission standards; or
- (b) imports machinery, equipment or any similar device which is likely to cause emissions into the ambient air shall not import it contrary to the prescribed emission standards for the machinery, equipment, or any similar device.

(2)A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Additional licensing procedure

54. The Authority may establish additional procedure for the application and issue of a pollution licence.

Noise in excess of established standards prohibited

55. (1) No person shall emit or cause to emit noise in excess of the noise emission standards established under section 40.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Exemptions

56.(1) Notwithstanding the provisions of section 55, the Authority may on request by any person issue a permit in writing, allowing excessive emission of noise under such terms and conditions as the Authority may determine.

(2) Where an exemption has been given under subsection (1), a worker exposed to excessive levels of noise shall be adequately protected in accordance with the directives issued by the Authority.

Offences relating to ionizing radiation

57.(1) No person shall import, process, mine, export, possess, transport, use or dispose of radioactive materials or other sources of dangerous radiation unless he holds an ionizing radiation licence issued under this Act or the regulations made under this Act.

(2) An ionizing radiation licence issued under this section shall be valid for 1 year.

(3) A person issued an ionizing radiation licence shall pay the prescribed fee for the ionizing radiation licence.

(4) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

(5) Where a person is convicted in respect of this section, the environmental inspector may, in addition to the penalties provided in subsection (2), seize, impound, destroy or dispose of radioactive materials or other source of dangerous ionizing radiation in such manner as the court may consider necessary to protect the public and the environment, or return them to the owner on orders of the court and under any other conditions set out in the licence issued by the Authority.

Powers of inspectors relating to ionizing radiation

58. (1) An environmental inspector may-

(a) enter, inspect and examine a place, area, premises, vehicle, vessel or a conveyance of any description on which he has reasonable grounds to believe that radioactive materials or any source of ionizing radiation is stored, used; transported or disposed of; or

(b) order presentation of a licence authorising the possession or use of radioactive material or sources of dangerous ionizing radiation.

(2) Notwithstanding the provisions of paragraph (a) of subsection (1), an environment inspector shall not enter a private dwelling house unless he has obtained a court order authorising him to enter, inspect and examine the private dwelling house.

Offences relating to noxious smell

59. (1) No person shall pollute the environment with noxious smells contrary to the established standards for the control of noxious smells.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

PART VIII - ENVIRONMENTAL MANAGEMENT

Identification and protection of hilly and mountainous areas

60.(1) Every District Development Coordinating Committee shall, under its area of jurisdiction, identify the hilly or mountainous areas, which are at risk from environmental degradation.

(2) A hilly or mountainous area is at risk from environmental degradation if-

- (a) it is prone to soil erosion;
- (b) landslides have occurred or are likely to occur in that areas;
- (c) vegetation cover has been removed or is likely to be removed from the area at a rate faster than it is being replaced; or
- (d) any other land use activity in that area is likely to lead to environmental degradation.

(3) Every District Development Coordinating Committee shall notify the Authority of the hilly and mountainous area it has identified as being at risk from environmental degradation.

(4) The Authority shall in consultation with the relevant Line Ministry, develop, issue and implement procedures, guidelines and measures necessary for sustainable use of hilly or mountainous area and the vegetation growing on them and all natural resources.

(5) The guidelines, procedures and measures referred to in subsection (4) shall provide for-

- (a) control of forests and any natural resources located in or on the hilly or mountainous area;
- (b) protection of water catchment area;
- (c) prevention of soil erosion;
- (d) regulation of human settlement;
- (e) appropriate farming methods;
- (f) disaster preparedness;
- (g) afforestation and reforestation;
- (h) the farming capacity of hilly and mountainous areas in relation to animal husbandry;
- (i) any other measures that the Authority may consider necessary.

(6) Every District Development Coordinating Committee shall ensure that the guidelines issued and measures prescribed under this section are implemented.

(7) No person shall act or do anything contrary to guidelines or measures prescribed by the Authority.

(8) A person who contravenes the provisions of subsection (7) commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Re-forestation and afforestation of hilly and mountainous areas

61. (1) Every District Development Coordinating Committee shall, prepare for its area of jurisdiction, a District Environment Action Plan which must specify which of the areas identified in accordance with section 60 should be targeted for afforestation or reforestation.

(2) Every District Development Coordinating Committee shall, through encouraging voluntary self-help in their respective communities take measures to plant trees and other vegetation in areas specified under subsection (1) which are within its area of jurisdiction and not subject to any personal interest in land.

(3) Where the areas specified under subsection (1) are subject to any personal interest in land, the holder of that interest shall take measures to plant trees and other vegetation in those areas.

(4) Where a person who has an interest in land fails to comply with the provisions of subsection (3), the local authority shall determine measures to ensure compliance.

Protection of rivers, river banks, wetlands etc.

62.(1) The Authority shall in consultation with the relevant line Ministry issue guidelines and prescribe measures for protection of riverbanks, rivers, wetlands, lakes and lakeshores.

(2) No person shall in relation to a river, riverbank, lake, lakeshore or wetland and without prior approval of the Authority carry out the following activities-

- (a) use, erect, construct, place, alter, extend, remove or demolish a structure in or under the river, river banks, lake, lake shore, or wetlands;
- (b) excavate, drill, tunnel or disturb the river, river bank, lake, lakeshore or wetland;
- (c) introduce or plant any part of a plant, plant specimen whether alien or indigenous, dead or alive in a river, river bank, lake, lakeshore or wetland;
- (d) deposit a substance in a river, river bank lake, lakeshore or wetland or in or under its bed, which is likely to have adverse environmental effects on the river, lake or wetland;
- (e) direct or block a river, lake or wetland from its natural course; or
- (f) drain a river, lake or wetland.

(3) The Authority may by notice published in the Gazette-

- (a) declare a river, river bank, lake, lake shore or wetland a protected area; and
- (b) impose any restrictions as it considers necessary for the protection of the river, riverbank, lake, lakeshore and wetland from environmental degradation.

(4) The Authority may, in declaring a river, riverbank, lake, lakeshore or wetland a protected area, take into consideration the following-

- (a) the geographical size of the river, river bank, lake, lake shore or wetland; and
- (b) the interests of the communities resident around the river, riverbank, lake, lakeshore or wetland concerned.

(5) A person who contravenes the provisions of subsection (1) commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

General and specific orders, for standards for the management of river, river banks, lake, lake shore and wetlands

63.(1) The Authority may by notice in the Gazette publish general or specific orders, or standards for the management of rivers, riverbanks, lakes, lakeshores or wetlands.

(2) The orders or standards referred to in subsection (1) may include protection or conservation measures in respect of any area at risk of environmental degradation and provide for the following-

- (a) measures for the prevention or control of soil erosion;
- (b) the conservation of any vegetation growing around a river, lake or wetlands;
- (c) the contingency plan for the prevention and control of deliberate or accidental discharge of any substance from any source, which is likely to pollute the river, wetland or lake;
- (d) plans for the protection of wetlands, rivers, and riverbanks, lakes and lakeshores;
- (e) the control measures to be taken in harvesting aquatic living and non-living resources to ensure optimum sustainable yield; and
- (f) promotion of environmental friendly tourism.

(3) Notwithstanding the provisions of this section and section 62, the Authority may authorise sustainable use of river, riverbanks, and lakes, lakeshores or wetland where such use is not likely to cause adverse effects on the riverbanks, lakeshore or wetlands.

(4) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines for the management of the environment of rivers and lakes.

(5) No person shall act contrary to orders, standards and guidelines issued pursuant to subsection (1).

(6) A person who contravenes the provisions of this section commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Protection of forests

64. (1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for the protection and management of all forests in Lesotho.

(2) The guidelines issued and measures prescribed pursuant to subsection (1) shall take into account the following-

- (a) forests in protected areas, including forest reserves, national parks and game reserves; and
- (b) forests on land subject to interest held by private persons.

(3) All forests shall be managed in accordance with the principle of sustainable development.

(4) The commercial or industrial exploitation of forests shall be carried out in accordance with the principle of optimum sustainable use.

(5) Traditional use of forests, which are indispensable to the local community, shall be carried out in accordance with the principle of sustainable development.

(6) Notwithstanding the provisions of subsection (3), (4) and (5), the Authority may in consultation with the relevant Line Ministries, expressly exclude human activities in any forest area by declaring a forest area a specially protected forest area.

(7) No person shall act contrary to the guidelines issued and measures prescribed by the Authority for the sustainable management of all forests in Lesotho.

(8) A person who contravenes the provisions of subsection (7) commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Conservation of energy and planting of trees or woodlots

65. The Authority shall, in consultation with the relevant Line Ministry-

- (a) promote the use of renewable sources of energy by-
 - (i) promoting research in appropriate renewable sources of energy;
 - (ii) creating incentives for the promotion of renewable sources of energy;
- (b) promote measures for the conservation of non-renewable sources of energy; and
- (c) take measures to encourage the planting of trees and woodlots by individual users, institutions and by community groups.

Conservation of Biological Diversity

66. (1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for the conservation of biological diversity.

- (2) In issuing guidelines under subsection (1), the Authority may-
 - (a) integrate a conservation and sustainable utilization ethic in relation to biological diversity with existing Government activities and activities of private persons;
 - (b) specify national strategies, plans and programmes for the conservation and sustainable use of biological diversity;
 - (c) prepare and maintain an inventory of biological diversity of Lesotho;
 - (d) determine which components of biological resources are threatened with extinction;
 - (e) identify actual and potential threats to biological diversity and devise measures to remove or mitigate their effects; or
 - (f) prohibit or restrict any trade or traffic in any component of biological diversity.

Conservation of biological resources in situ

67. (1) The Authority shall, in consultation with the relevant Line Ministry-
- (a) prescribe measures to ensure the conservation of biological resources in situ;
 - (b) issue guidelines for-
 - (i) land use methods that are compatible with the conservation of biological diversity;
 - (ii) the selection and management of protected areas so as to promote the conservation of the various terrestrial and aquatic ecosystems of Lesotho;
 - (iii) the selection and management of buffer zones near protected areas;

- (iv) special measures for protection of species, ecosystems, and habitats faced with extinction;
- (v) prohibiting or controlling of the introduction of alien species;
- (vi) integrating traditional knowledge for the conservation of biological diversity with mainstream scientific knowledge.

(2) In this section “in situ” means conservation within the natural ecosystems and habitat of the biological organism.

Conservation of biological resources ex-situ

68. (1) The Authority shall, in consultation with the relevant Line Ministry-
- (a) prescribe measures for the conservation of biological diversity ex-situ especially for species threatened with extinction;
 - (b) issue guidelines for the establishment and operation of-
 - (i) botanical gardens;
 - (ii) game parks, and
 - (iii) any other facilities which the Authority may consider necessary;
 - (c) ensure that species threatened with extinction which are conserved ex-situ are re-introduced into their native habits and ecosystems where-
 - (i) the threat to the species has been terminated; or
 - (ii) viable population of the threatened species has been achieved.

(2) In this section, “ex-situ” means conservation outside the natural habitat of the biological organisms.

Access to genetic resources of Lesotho

69. (1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for the sustainable management and utilization of genetic resources of Lesotho for the benefit of the people of Lesotho.

- (2) Notwithstanding the provisions of subsection (1), guidelines and measures issued or prescribed pursuant to subsection (1) shall specify-
- (a) appropriate arrangements for access to the genetic resources of Lesotho by non-citizens or non-residents of Lesotho and fees to be charged for that access;
 - (b) the sharing of benefits derived from genetic resources of Lesotho; or
 - (c) any other matters that the Authority may consider necessary for the sound management of the genetic resources of Lesotho.

Management of rangelands

70. (1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for the sustainable management and utilization of rangelands.

- (2) In issuing the guidelines and prescribing measures referred to in subsection (1), the Authority shall be guided by-
- (a) the carrying capacity of the land;
 - (b) the conservation of the soil;

- (c) the risk to desertification faced by a rangeland; and
- (d) any other factor, which the Authority may in consultation with the relevant Line Ministry, considers appropriate.

Land use planning

71.(1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for land use planning at the local, district and national level.

(2) The national land use plan may include-

- (a) development and implementation of an integrated land use policy based on scientific soil classification;
- (b) rehabilitation of degraded land through application of appropriate technology such as gabionage and small dam construction, grassing, tree planting, grazing, contouring and trenching;
- (c) adoption of planning and management systems that facilitate the integration of environmental components such as water, forests, mountains and other natural resources;
- (d) strengthening of management systems for land and natural resources by including traditional and indigenous methods where appropriate;
- (e) development of policies that encourage compatible, mutually reinforcing land use and management of land resources, taking demographic issues and local interests into account;
- (f) enhancement of quality of land management through reform of land tenure procedures and provision of easily available agricultural facilities; and
- (g) any other thing which the Authority in consultation with the relevant Line Ministry may consider necessary.

(3) The Authority and the relevant Line Ministry shall monitor the implementation of a land use plan prepared in accordance with this section.

Protection of natural heritage sites

72. The Authority shall, in consultation with the relevant Line Ministry-

- (a) identify elements, objects and sites in the natural environment, which are of national importance to the people of Lesotho;
- (b) in such manner as may be prescribed, maintain a register of all elements, objects and sites identified pursuant to paragraph (a); and
- (c) issue guidelines and prescribe measures for the management and protection of cultural elements, objects and sites registered in accordance with this section.

Protection of natural environmental areas

73. (1) The Authority may, in consultation with the relevant Line Ministry, declare by notice in the Gazette, any area of land, river or lake as a protected natural environment for the purposes of promoting and preserving specific ecological processes, natural environmental systems, natural beauty or places of indigenous wildlife or the preservation of biological diversity in general.

(2) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines and prescribe measures for the management and protection of natural environmental areas.

Protection of the ozone layer

74. The Authority shall, in consultation with the relevant Line Ministry-

- (a) undertake or commission other persons to undertake national studies and give due recognition to development in scientific knowledge relating to substances, activities and practices that deplete the stratospheric ozone layer and other components of the stratosphere to the detriment of public health and the environment;
- (b) issue guidelines, and institute programmes relating to-
 - (i) the elimination of substances that deplete the ozone layer;
 - (ii) management practices and activities likely to lead to the degradation of the ozone layer and the stratosphere; or
 - (iii) the reduction and minimization of risks to human health created by the degradation of the ozone layer and the stratosphere.

Management of dangerous materials

75. The Authority shall, in consultation with the relevant Line Ministry-

- (a) identify materials and processes that are dangerous to human health or the environment; and
- (b) issue guidelines and prescribe measures for the management of materials and processes identified pursuant to paragraph (a).

Management of hazardous waste

76. (1) The Authority shall, in consultation with the relevant Line Ministry-

- (a) adopt standards or criteria for the classification of hazardous wastes with regard to determining-
 - (i) extremely hazardous waste;
 - (ii) corrosive waste;
 - (iii) carcinogenic waste;
 - (iv) flammable waste;
 - (v) persistent waste;
 - (vi) toxic waste;
 - (vii) explosive waste;
 - (viii) radioactive waste;
 - (ix) wastes, reactive otherwise than as described in the foregoing;
 - (x) any other category of waste which the Authority may consider necessary.

(2) The Authority shall, in consultation with the relevant Line Ministry issue guidelines for the management of each category of hazardous waste classified under subsection (1).

Application for a waste licence

77. (1) No person shall-

- (a) own or operate a waste disposal site or plant other than domestic waste;
- (b) generate hazardous waste;
- (c) store hazardous waste;
- (d) handle or transport hazardous waste;
- (e) dispose of hazardous waste; unless he is in possession of a licence to own or operate a disposal site, generate, store, transport or dispose of hazardous waste.

(2) A person referred to in subsection (1) shall apply in writing to the Authority for a licence, which may be issued on such terms and conditions as the Authority may determine.

(3) A licence issued in respect of subsection (1) may be granted by the Authority subject to any other licence that may be required in terms of this Act or any other law.

(4) A person whose activities generate waste shall employ measures essential to minimize waste through treatment, determination or recycling.

(5) Where the Authority rejects an application for waste licence, the Authority shall in writing state reasons for rejecting the application.

(6) A person aggrieved by decision of the Authority may in writing appeal to the Tribunal.

(7) A person, who at the commencement of this Act is carrying on the business or operating a waste disposal site, plant, generating, storing, transporting or disposing hazardous waste, shall, apply in writing to the Authority for a licence under this section within 6 months of the coming into operation of this Act.

(8) A person who contravenes the provisions of subsections (1) and (7), commits an offence and is on conviction liable to a fine not less than M5,000 but not exceeding M150,000 or to imprisonment for a term not less than 5 years but not exceeding 15 years or to both.

(9) The waste licence shall be valid for a period of one year and for every issue or renewal of a waste licence the licensee shall pay to the Authority the prescribed fee.

Importation and exportation of hazardous waste prohibited

78.(1) No person shall import into Lesotho any hazardous waste or substances.

(2) No person shall export from Lesotho to any country hazardous waste or substances unless he has a licence issued by the Authority.

(3) The exporter of hazardous waste or substance shall before a licence is issued produce to the Authority written confirmation from an appropriate authority of the receiving country that the hazardous waste or substance may be exported to that country.

(4) No person shall transport within Lesotho hazardous waste or substances except under a licence issued by the Authority subject to such conditions as the Authority may impose.

(5) A person who contravenes the provisions of this section commits an offence and is on conviction liable to a fine not less than M20,000 but not exceeding M200,000 or to imprisonment for a term not less than 10 years but not exceeding 20 years or to both.

(6) Any person who imports any hazardous waste or substance into Lesotho contrary to subsection (1) shall be responsible for the removal of the waste from Lesotho and for its safe disposal.

Cancellation of a waste licence

79. The Authority may in writing, cancel a waste licence where-

(a) the holder of the licence fails to comply with the conditions specified in the licence; or

- (b) the Authority considers it in the interest of the environment or public health or in the public interest.

Court order to cease operation

80. The Authority may apply to the High Court for an order compelling a person to immediately stop waste generation, handling, transportation, storage or disposal of hazardous waste where such generation, handling, transportation, storage or disposal presents imminent and substantial danger to public health, the environment or natural resources.

Register of waste licences and other pollution licences

81. (1) The Authority shall maintain a register of all waste licences and any other pollution licence issued pursuant to this Act.

(2) The register referred to in subsection (1) shall be a public document and may be inspected by any person at a reasonable time on the payment of a prescribed fee.

Management of toxic and hazardous chemicals and substances

82. (1) The Authority shall, in consultation with the relevant Line Ministry, issue guidelines, and prescribe measures for the management of toxic and hazardous substances.

(2) The guidelines issued and measures prescribed pursuant to subsection (1) may provide for the following-

- (a) classification of toxic and hazardous chemicals and substances;
- (b) registration of chemicals and substances;
- (c) packaging of chemicals and substances;
- (d) advertising of chemicals and substances;
- (e) control of imports and exports of toxic or hazardous chemicals and substances;
- (f) labeling of chemicals and substances;
- (g) distribution, storage, transportation and handling of toxic and hazardous chemicals and substances;
- (h) monitoring of the effects of chemicals and their residue on human health and the environment;
- (i) disposal of expired and surplus chemicals and substances;
- (j) disposal of used chemicals and substances; and
- (k) restricting or banning of toxic or hazardous chemicals and substances.

Handling of toxic or hazardous chemicals or substances

83. (1) No person shall handle toxic or hazardous chemicals unless it is in accordance with the guidelines issued or measures prescribed under section 82.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is on conviction liable to a fine not less than M20,000 but not exceeding M200,000 or to imprisonment for a term not less than 10 years but not exceeding 20 years or to both.

(3) In addition to a fine or imprisonment under subsection (2), a person convicted shall-

- (a) pay the costs incurred by the Government or Authority in the restoration of the environment damaged or destroyed as a result of the discharge; or

(b) pay the costs to third parties in the form of reparation, restoration, restitution or compensation as may be determined by the Authority in consultation with the relevant Line Ministry.

(4) The owner or operator of a production or storage facility, vehicle or conveyance or any other thing from which a discharge occurs contrary to this section shall-

- (a) give immediate notice of the discharge, to the Authority and the relevant Line Ministry;
- (b) apply clear-up operations using the best clean up methods;
- (c) comply with directions that the Authority may give.

(5) The Authority may seize the production or storage facility, vehicle, conveyance or any other thing from which a discharge occurred until the owner or operator of that production, storage facility, conveyance or any other thing from which a discharge occurred has taken measures to mitigate the impact of the discharge or stop the discharge.

(6) Where the owner or operator fails to take necessary measures referred to in subsection (4), within a period of 1 month from the date the Authority is notified of the discharge, the Authority may apply for court order to dispose of the production or storage facility conveyance or any other thing from which the discharge occurred so as to meet the costs of taking the necessary remedial or restoration measures.

PART IX - ENVIRONMENTAL RESTORATION ORDER

Environmental restoration order

84. (1) The Authority may issue to any person, in respect of a matter relating to the management of the environment and natural resources, an environmental restoration order.

(2) An environmental restoration order referred to in subsection (1), may be issued for the following purposes-

- (a) requiring the person whose activities have degrading effect on the environment or natural resources to restore that environment or natural resources as near as it may be to the state in which it was before he began activities which have degrading effect on the environment or natural resources;
- (b) preventing the person from taking an action which is causing or is likely to cause harm to the environment or natural resources;
- (c) awarding compensation to be paid by the person whose activities caused harm to the environment or to the person whose health, livelihood or environment has been affected by the action which is subject of the order; or
- (d) levying a charge, which represents a reasonable estimate of the cost of an action taken by an authorised person or organisation to restore the environment to the state in which it was before the taking of the action which is the subject of the order.

(3) An environmental restoration order may have any terms or conditions and impose on the person on whom it is served, obligations, which in the opinion of the Authority may enable the order to achieve the purposes for which it was issued.

(4) Notwithstanding the provisions of this section, the restoration order may require a person on whom it is served to -

- (a) take an action, which may prevent the commencement or continuation or the cause of pollution;
- (b) restore land, including the replacement of soil, the replanting of trees and other flora and outstanding geological, archaeological or historical features of the land or the area to the land specified in the order;
- (c) take an action which shall prevent the commencement or continuation or cause of the environmental hazard;
- (d) cease to take an action, which is causing or is likely to cause pollution or an environment hazard;
- (e) remove or alleviate damage to land or the environment or to the amenities of the areas;
- (f) prevent damage to the land or the environment, aquifers beneath the land and flora and fauna in, on or under the land specified in the order or land or the environment contiguous to the land specified in the order;
- (g) remove or dispose of waste or refuse deposited on land specified in the order; or
- (h) pay compensation specified in the order.

(5) The Chief Executive shall have power to inspect, at any reasonable time, any activity on any premises for purposes of determining whether the activity is harmful to the environment of the conservation of natural resources or whether to make an environmental restoration order under subsection (1).

(6) For purposes of subsection (5), the Chief Executive may enter any premises at any reasonable time to enforce the environmental restoration order and the Chief Executive shall not be responsible for the consequences of any action reasonably taken by him in good faith under this section.

(7) The Chief Executive may delegate the power referred to in subsection (5) and (6) to an inspector or any person duly authorised by him and anything done by that person shall be deemed to be done by the inspector or by the Chief Executive and shall be valid for all purposes.

(8) In exercising the powers under this section, the Authority shall be guided by the principles of good environmental management specified in this Act.

Service of environmental restoration order

85.(1) Where the Authority reasonably suspects that harm has been or is likely to be caused to the environment by any person's activity, it may serve on that person an order requiring that person to take action within 21 days of the service of the order, to remedy or prevent the harm to the environment as may be specified in the order.

(2) An environmental restoration order shall specify clearly and in a manner that may be precisely understood-

- (a) the activity to which it relates;
- (b) the person to whom it is addressed;
- (c) the time at which it comes into effect;
- (d) the action which must be taken to remedy the harm to the environment;
- (e) the time within which the action must be taken;
- (f) the powers of the Authority to have any of its designated officer to enter any land and undertake the action specified in paragraph (d);
- (g) the penalties which may be imposed if the action specified in paragraph (d) is not undertaken;

- (h) the right of the person served with an environmental restoration order to appeal to the court or Tribunal against that order.
- (3) The environmental inspector may inspect an activity to determine whether that activity is harmful to the environment or human health.
- (4) The Authority may-
 - (a) take into account the findings of the inspection in determining whether or not to serve an environmental restoration order;
 - (b) seek and take into account technical, professional and scientific advice, which it considers to be desirable for a satisfactory decision to be made on an environmental restoration order.
- (5) An environmental restoration order shall continue to apply to the activity in respect of which it was served even if it has been complied with.
- (6) A person served with an environmental restoration order shall comply with all terms and conditions of the environmental restoration order served on him.
- (7) A person who is-
 - (a) involved in an activity which is the subject of the inspection; or
 - (b) residing, working on or developing land on which the activity, which is the subject of the inspection, is taking place, is not entitled to a hearing or making representation to the person who is conducting an inspection.

Reconsideration of restoration order

86. (1) A person who is served with an environmental restoration order may, within 21 days of the service of the environmental restoration order give in writing, reasons why he is requesting the Authority to reconsider the environmental restoration order.
- (2) Where a written request is made as provided for under subsection (1), the environmental restoration order shall continue to be effective until varied, suspended or withdrawn.
 - (3) The Authority shall, within 31 days of receiving the request made in accordance with subsection (1), reconsider the environmental restoration order and notify in writing the person who made the request of its decision on the environmental restoration order.
 - (4) The Authority may, after reconsidering the environmental restoration order confirm, vary, suspend or withdraw the environmental restoration order.
 - (5) The person who has requested a reconsideration of an environmental restoration is entitled to a hearing before a decision is made by the Authority.

Action by the Chief Executive in case of non compliance with an environmental restoration order

87. (1) Where a person on whom an environmental restoration order is served fails, neglects or refuses to comply with the requirements of the order, the Chief Executive may-
- (a) enter or authorise another person to enter any land or premises under the control of the person on whom the environmental restoration order was served; and

(b) take all necessary action in respect of the activity to which that order relates, so as to enforce the order.

(2) Where the Chief Executive exercised the power provided for under subsection (1), he may recover as a civil debt, in a court of competent jurisdiction, from the person referred to in subsection (1), the expenses necessarily incurred by the Authority in the exercise of its power.

Issue of environmental restoration order by a court

88. Notwithstanding the provisions of section 85, a court of competent jurisdiction may, in proceedings brought by any other person, issue an environmental restoration order against a person whose activities have caused harm or are causing harm or are likely to cause harm to the environment.

PART X - INSPECTION, ANALYSIS AND RECORDS

Designation of environmental inspectors

89. The Authority may by notice published in the Gazette designate duly qualified public officers to be environmental inspectors within such areas and in relation to such subject matter as may be specified in the Gazette designating them.

Powers and duties of environmental inspectors

90. (1) An environmental inspector may, in the performance of his duties under this Act or the regulations made under this Act, without warrant-

- (a) enter any land, premises, vessel or vehicle or any other thing for purposes of determining whether the provisions of this Act are being complied with;
- (b) require the production of, inspect, examine and make a copy of licences, registers, records and any other document or thing relating to this Act or any other law relating to the environment and the management of natural resources;
- (c) take samples of any articles and substances to which this Act relates and submit them for tests and analysis;
- (d) carry out periodic inspections of all establishments and undertakings which manufacture, produce as by-products, import, export, store, sell, distribute, or use any substances that are likely to have significant impact on the environment, to ensure that the provisions of this Act are complied with;
- (e) make examinations and inquiries so as to discover whether the provisions of this Act are being complied with;
- (f) carry out such other inspections as may be necessary to ensure that the provisions of this Act are complied with;
- (g) issue an improvement notice requiring the owner or operator of a manufacturing plant, undertaking or establishment which pollutes or is likely to pollute the environment to take appropriate remedial measures including the installation of new plant or machinery, where necessary;
- (h) require the owner or operator of the manufacturing plant or undertaking or establishment referred to in paragraph (h) to implement remedial measures that the environmental inspector may, in the notice closing down that manufacturing plant undertaking or establishment, direct;

- (i) issue an improvement notice requiring the operator of a manufacturing plant, undertaking or establishment to cease activities deleterious to the environment;
- (j) with the approval of the Authority, seize any plant, equipment, vessel, vehicle, manufacturing plant, substance or any other thing which he believes has been used in the commission of an offence against this Act or the regulations made under this Act;
- (k) close, with the approval of the Authority, a manufacturing plant or other establishment, undertaking or other activity which pollutes or is likely to pollute the environment contrary to the provisions of this Act; or
- (l) request a police officer to arrest a person whom he reasonably believes has committed an offence under this Act.

(2) The Authority may, for purposes of enabling environmental inspectors to monitor compliance with the provisions of this Act or the regulations made under this Act, install an equipment on any land, premises, manufacturing plant, vehicle or vessel or any other thing.

(3) The environmental inspector shall, in exercising his powers under this Act or the regulations made under this Act, suitably identify himself to a person who owns or operates a manufacturing plant, undertaking or establishment operating contrary to the provisions of this Act.

(4) The Authority shall prescribe the form and manner in which samples for analysis shall be taken.

(5) A person who tampers with the equipment installed by the environmental inspector under this section commits an offence and is liable on conviction to a fine not less than M20,000 but not exceeding M200,000 or to imprisonment for a term not less than 10 years but not exceeding 20 years or to both.

Designation of analytical laboratories analysts and reference analysts

91. The Authority may, by notice published in the Gazette designate-

- (a) a laboratory which may, amongst other things, be used for analytical and reference purposes; or
- (b) persons who shall serve as analysts or reference analysts for the purposes of this Act.

Certificate of analysis

92. (1) A laboratory designated as an analytical or reference laboratory under this Act shall issue a certificate of analysis on a substance submitted to it pursuant to this Act.

(2) The certificate of analysis shall state the methods of analysis followed and be signed by the analyst or reference analyst.

(3) A certificate issued pursuant to subsection (1) shall be sufficient evidence of the facts stated in the certificate for the purposes of this Act.

Record keeping

93. (1) The Authority may by notice in the Gazette prescribe the activities for which records shall be kept for the purposes of this Act, the contents of those records and the manner in which they shall be kept.

(2) The records kept in accordance with subsection (1) or any other records kept, for purposes of this Act, at the site of an establishment or undertaking shall be made available to the Authority or an environment inspector for the purposes of -

- (a) an environmental audit;
- (b) environmental monitoring;
- (c) pollution control;
- (d) inspection; and
- (e) any other purpose that may be prescribed by the Authority.

(3) The records kept pursuant to this section and any other records kept for purposes of this Act or the regulation made under this Act shall be copied and transmitted to the Authority at such intervals as the Authority may determine.

(4) The Authority shall keep all records transmitted to it pursuant to subsection (3) and maintain their confidentiality where circumstances so require.

PART XI- INTERNATIONAL ENVIRONMENTAL CONVENTIONS

Conventions and treaties on the environment

94.(1) Where Lesotho is a party to an international or regional convention or agreement, concerning the management of the environment or natural resources, the Authority shall, in consultation with the relevant Line Ministry-

- (a) initiate and prepare legislative proposals for consideration by the relevant Ministry for purposes of implementing those international or regional conventions or agreements; and
- (b) identify appropriate measures necessary for the implementation of conventions or agreements.

(2) The Authority shall keep a register of all international conventions or agreements concerning the management of the environment or natural resources to which Lesotho is a party.

PART XII - INFORMATION, EDUCATION AND PUBLIC AWARENESS

Freedom of access to environmental information

95. (1) A person who desires to obtain information relating to the implementation of this Act or any other information concerning the management of the environmental or natural resources shall subject to section 93(4) have access to that information.

(2) A person referred to in subsection (1) shall-

- (a) apply to the Authority in writing indicating the type of information he desires to obtain; and
- (b) pay a fee, which may be prescribed by the Minister.

(3) The Authority shall grant access to the information referred in this section, on such terms and conditions, as the Authority may deem necessary.

(4) Freedom of access to information pursuant to this section does not extend to proprietary information, which shall be treated by the Authority as confidential.

The Authority to collect, analyze and disseminate environmental information

96. (1) The Authority shall-

- (a) gather information on the environment and natural resources on the existing data;
- (b) subject to any other law, have access to any data collection on the environment and natural resources;
- (c) analyze information relating to the environment and natural resources;
- (d) disseminate information to public and private users;
- (e) carry out public information and education campaigns in the field of environment;
- (f) exchange information relating to environment with non-governmental organisations or any other regional and international organisations;
- (g) co-ordinate the management of environmental information with the Line Ministry;
- (h) advise the Council on existing information gaps and needs; or
- (i) establish in consultation with Line Ministries, guidelines and principles for the gathering, processing and dissemination of environmental information.

(2) The Authority shall every 5 years, publish a report on the state of the environment and environment management in Lesotho.

(3) The Authority may, publish any other information it considers necessary for public education on the environment and other environmental issues.

Environmental education

97. The Authority shall, in consultation with the relevant Line Ministry, take appropriate measures for the integration of education on the environment in the school and university curriculum.

PART XIII - FINANCIAL PROVISIONS

Establishment of the National Environment Fund

98. (1) There is hereby established the National Environment Fund into which all monies received by the Authority shall be paid in the first instance and out of which all payments shall be made.

(2) The sources of the Fund shall consist of-

- (a) sums of money appropriated by Parliament for the purposes of the Act;
- (b) any fees prescribed for any service offered by the Authority;
- (c) any fees charged under this Act;
- (d) all monies that may from time to time be donated, lent or granted to the Authority,
 - (i) by the Government or by a Ministry, Department or other agency of the Government, or
 - (ii) by another government or by a person or by an international organisation;
- (e) all investments acquired by or vested in the Authority and all money earned or arising therefrom;
- (f) all sums from time to time received or falling due to the Authority in respect of the repayment of any loan or advance made by the Authority or the interest payable in respect of any such loan or advance;

- (g) monies raised or borrowed by the Authority in accordance with section 105; and
- (h) all other monies that may in any manner become payable to or vested in the Authority in respect of any matter incidental to its purpose, powers and duties.

Object of the Fund

99. The object for which the Fund is established is the protection, enhancement and management of the environment and natural resources in Lesotho.

Administration of the Fund

100. (1) The Fund shall be vested in the Authority.

(2) Subject to the provisions of this Act, the Chief Executive shall under the direction of the Board of Directors, administer the Fund.

Bank account

101. The Authority may open and maintain an account or accounts with an approved bank or approved banks.

Expenses of the Authority

102. Parliament shall annually provide to the Authority such sums as may be necessary for the efficient discharge of its functions under this Act.

Appropriation of revenue

103. All income and property and all revenues of the Authority acquired from whatever source are to be applied exclusively to the fulfillment of the purposes of the Authority.

Exemption from taxation

104. Notwithstanding anything to the contrary in any written law contained, the Authority is not liable to pay, tax on any income or profit from any source payable under the Income Tax Act 19932 , transfer duties payable under the Transfer Duty Act 19663 , stamp duties payable under the Stamp Duties Order 19724 and any fees payable under the Deeds Registry Act 19675 .

Borrowing powers

105. (1) Subject to the Loans (Statutory Bodies) Act 19756 , the Authority may-

- (a) borrow temporarily by way of bank overdraft or otherwise from inside or outside Lesotho, such sums as it may require for meeting its obligations or performing its functions; and
- (b) from time to time, from inside or outside Lesotho, raise money by way of loans, in such amounts and for such purpose and periods as may be authorised by the Minister.

(2) The repayment of monies borrowed by the Authority and the payment of interest thereon and of all charges connected with such borrowing shall be a liability of the Authority and shall be charged on such of its assets and revenue and on such conditions as may be agreed upon between the Authority and the lender.

(3) The Minister may from time to time, after consultation with the Minister of Finance, specify the amount of capital commitment of the Authority, which amount shall not be exceeded by the Authority.

Superannuation on pensions, etc.

106. (1) The Authority shall establish and maintain pensions, superannuation, provident or other funds as it may consider desirable for the provision of payments, gratuities, pensions or other allowances on death, illness, injury, superannuation, resignation, retirement or discharge of its officers or servants and their dependants.

(2) The Authority may contract with an insurance company or other body for the maintenance of the funds referred to in subsection (1).

Accounts, audit and annual reports

107. (1) The Authority shall cause to be kept proper books of accounts and prepare records in respect of income and expenditure, assets and liabilities and any other transaction of the Authority.

(2) The Auditor-General shall audit the accounts of the Authority or an auditor authorised by him under the Audit Act 19737 .

(3) The Authority shall, within 6 months after the financial year, prepare and submit to the Council an annual report relating the activities and actions of the Authority during that financial year.

(4) The report referred to in subsection (3) shall include-

- (a) financial statements which the Council may require;
- (b) a report on the operations of the Fund; and
- (c) any other information which the Council may require.

(5) The financial year of the Authority shall be the period of 12 months commencing on 1st April and ending on the 31st day of March.

(6) The Minister shall within 3 months after the receipt of the annual report submit the report to Parliament with such statements, as he may consider necessary.

Tax incentives and disincentives

108. Notwithstanding the provisions of the Income Tax Act 1993 or any other law relating to tax, the Minister responsible for Finance may on the recommendations of the Council include in the annual budget-

- (a) tax incentives to encourage good environmental behaviour including conservation of natural resources and the prevention or abatement of pollution;
- (b) tax disincentives to discourage or deter bad environmental behaviour that causes pollution or leads to the depletion of environmental resources; and
- (c) user fees to ensure that those who use environmental resources pay proper value for the utilization of the resources;
- (d) customs and excise waiver in respect of imported capital goods which prevent or substantially reduce pollution caused by an activity; or

- (e) tax rebates to industrial or other establishments that invest in plant, equipment and machinery for recycling of waste, water use and conservation, prevention of floods and for using renewable resources as a substitute for hydrocarbons.

PART XIV - ENVIRONMENTAL TRIBUNAL

Establishment of the Environmental Tribunal

109.(1) There is established a Tribunal to be known as the "Environmental Tribunal".

(2) The Tribunal shall consist of-

- (a) a chairman who shall be a person who is a legal practitioner of not less than 5 years and shall be appointed by the Minister after consultation with the Chief Justice;
- (b) a person who holds a degree in law and has experience in environmental issues and who shall be appointed by the Minister;
- (c) a person who has experience in environmental issues and who shall be appointed by the Minister.

(3) A member and the chairman shall hold office for a term not exceeding 5 years and are eligible for re-appointment.

(4) 2 members of the Tribunal shall form a quorum.

(5) At a meeting of the Tribunal, the chairman shall have a deliberative vote, and in the case of equality of votes he shall also have a casting vote.

(6) The Tribunal may-

- (a) regulate its own procedure;
- (b) appoint one of its members to act as chairman where the chairman is absent.

(7) There shall be a secretary of the Tribunal who shall be an officer of the Authority.

(8) Where a person who is not a public officer is appointed a member of the Tribunal he shall receive such allowance as the Authority after consultation with the Minister of Finance, may determine.

(9) A member of the Tribunal who has a direct interest in a matter, which is the subject of the proceedings before the Tribunal, shall not take part in those proceedings.

Sittings of the Tribunal

110. The Tribunal shall sit in such place and at such times as the Chairman may appoint.

Appeals to the Tribunal

111.(1) A person who is aggrieved by-

- (a) a decision to issue or refuse to issue a licence or to the transfer of his licence issued under this Act or the regulations made under this Act;

- (b) the imposition of or failure to impose any condition, limitation or restriction in a licence issued under this Act or the regulations under this Act;
 - (c) the revocation, suspension or variation of a licence issued under this Act or the regulations made pursuant to this Act; or
 - (d) the imposition of an environmental restoration order made under this Act or the regulations made pursuant to this Act, may, within 21 days of the date upon which he is informed of a decision or order of any authority assigned to enforce this Act, appeal to the Tribunal against that decision or order provided that no person may appeal to the Tribunal from the issuance or refusal to issue a licence unless he has first sought reconsideration of the Authority's decision as provided in this Act.
- (2) A person making an appeal in accordance with subsection (1) shall-
- (a) give to the secretary of the Tribunal a written notice of appeal; and
 - (b) set out in the notice of appeal the grounds upon which the appeal is based.
- (3) A person aggrieved by the decision of the Tribunal may appeal to the High Court within 30 days from the date of the decision of the Tribunal.

Proceedings of the Tribunal

112. (1) The proceedings of the Tribunal shall be open to members of the public except where the Tribunal for good cause, otherwise directs.
- (2) The Tribunal shall not be bound by rules of evidence and shall admit as evidence any matter, which in its opinion shall assist it to arrive at a just and equitable decision for the advancement of the objects of this Act.
- (3) The Tribunal shall have power to-
- (a) summon any person to give evidence in any proceedings before the Tribunal or to produce to the Tribunal any document relevant to the proceedings before it;
 - (b) confirm, vary, amend or alter a decision made by the Authority or an environmental inspector or reverse or substitute such decision for any decision which is just and equitable and which is in the interest of the protection and management of the environment or the conservation and sustainable utilization of natural resources.

PART XV - OFFENCES

Offences relating to environmental inspectors

113. Any person who-
- (a) hinders or obstructs an environmental inspector in the execution of his duties under this Act;
 - (b) fails to comply with the lawful order or requirements made by an environmental inspector in accordance with this Act;
 - (c) refuses an environmental inspector entry upon any land or into any premises which he is empowered to enter by this Act;
 - (d) impersonates an environmental inspector;
 - (e) refuses an environmental inspector access to records kept in accordance with this Act;
 - (f) fails to state or wrongly states his name or address to an environmental inspector in the course of his duties under this Act;
 - (g) misleads or gives wrong information to an environmental inspector under this Act;

- (h) fails to carry out an improvement order issued by an environmental inspector under this Act, commits an offence and is liable on conviction, to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Offences relating to environmental impact assessment

114. Any person who-

- (a) fails to submit a project brief contrary to section 28;
- (b) fails to prepare an environmental impact statement contrary to sections 29 and 34;
- (c) fraudulently makes a false statement on an environmental impact statement submitted under section 29, commits an offence and is liable on conviction, to imprisonment for a period not exceeding 10 years or to a fine not exceeding M100, 000 or to both.

Offences relating to records

115. Any person who-

- (a) fails to keep records of the activities, products, by-products, and wastes required to be kept by this Act;
- (b) fraudulently alters any records required by this Act, commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Offences relating to environmental standards and guidelines

116. Any person who-

- (a) contravenes any environmental standards or guidelines for which no other penalty is specifically provided for; or
- (b) contravenes a measure prescribed under this Act for which no other penalty is specifically provided. commits an offence and is liable on conviction to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Offences relating to restoration orders

117. Any person who fails or refuses to comply with the environmental restoration order, made under section 84 commits an offence and is liable on conviction to imprisonment for a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

General penalty

118. Any person who commits an offence against any provision of this Act or of regulations made thereunder for which no other penalty is specifically provided is liable to a fine not less than M5,000 but not exceeding M100,000 or to imprisonment for a term not less than 2 years but not exceeding 10 years or to both.

Liabilities of bodies corporate and partnerships

119. (1) Where an offence is committed under this Act or regulations made under this Act by a body of persons-

- (a) in the case of a body corporate other than a partnership, every director or an officer of the body corporate shall also be deemed to be guilty of the offence; and
- (b) in the case of a partnership every partner or officer of that body shall also be deemed to be guilty of that offence.

(2) No person shall be deemed to be guilty of an offence by virtue of subsection (1) if he proves that the offence was committed without his knowledge or connivance and that he exercised all due care and diligence to prevent the commission of the offence having regard to all the circumstances.

Forfeiture, cancellation, community service and other orders

120. (1) The court, before which a person is prosecuted for an offence against this Act or any regulations made under this Act, may, in addition to any other order-

- (a) upon the conviction of the accused; or
- (b) if it is satisfied that an offence was committed notwithstanding that no person has been convicted of the offence, order that the substance, equipment and appliance used in the commission of the offence be forfeited to the State and be disposed of as the court directs.

(2) In making an order under subsection (1), the court may also order that the cost of disposing of the substance, equipment and appliance referred to in subsection (1), be borne by the accused.

(3) The court may further order that any licence, permit or other authorisation given under this Act and to which the offence relates be canceled.

(4) The court may, in addition to any fine it may impose upon an accused person, require him to do community work, which promotes the protection of the environment.

(5) The court may also issue an environmental restoration order against the accused in accordance with Part IX of this Act.

PART XVI - MISCELLANEOUS

Immunity

121. No suit, prosecution or other legal proceedings may be brought against a member of the Council, officers of the Authority, the Chief Executive, an environmental inspector, an analyst or other officials in their personal capacity for anything done in good faith under the provisions of this Act or the regulations, guidelines or standards made under this Act.

Regulations

122. (1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may-

- (a) provide for the issue, amendment and revocation of any licence issued under this Act;
- (b) prescribe fees and levies to be charged under this Act; and
- (c) provide for the protection of any particular species of fauna and flora;

- (d) provide for the control or restriction of access to genetic resources of Lesotho and provide for fees payable in respect of accessing germplasm and an export licence;
- (e) provide for the control of the manufacture, importation, exportation, collection, transportation, treatment, storage, recycling, recovery or disposal of substances which may be hazardous to the environment and public health;
- (f) provide for the disposal of waste generally;
- (g) provide for environmental impact assessment and specify sizes of projects and activities specified in the Schedule to the Act;
- (h) provide for the control of ozone depleting substances; and
- (i) prescribe anything required or permitted to be prescribed under this Act.

(3) Different regulations may be made under this Act.

(4) Regulations made under this section may adopt wholly or in part or with modification any regulations, rules, standards, guidelines, instructions, specifications, by-laws, codes or administrative procedures prescribed under any law either as in force at the time of the coming into operation of this Act or as amended from time to time.

Inconsistency with other legislation

123. In the event of any inconsistency between the provisions of this Act and operation of any other law, the provisions of this Act shall prevail to the extent of the inconsistency.

(Section 27)

SCHEDULE

Types of Projects and Activities for Which An Environmental Impact Assessment is Required

1. General-

- (a) any activity out of character with its surroundings;
- (b) any structure of a scale not in keeping with its surroundings;
- (c) major changes in land use.

2. Urban and Rural Development including-

- (a) designation of new urban areas;
- (b) establishment of industrial estates;
- (c) establishment or expansion of recreational areas;
- (d) establishment or expansion of recreational areas in mountain areas, national parks and game reserves;
- (e) rezoning;
- (f) shopping centres and complexes;
- (g) hotels and other tourist facilities.
- (i) buildings with a total floor space of 500m or more;
- (j) declaration of development areas; and
- (k) other infrastructure (both urban and rural).

3. Transportation including-

- (a) major roads;
- (b) all roads in scenic, wooded or mountainous areas;
- (c) airports and airfields;

- (d) pipelines;
 - (e) water transport activities;
 - (f) bridges;
 - (g) railways;
 - (h) cable ways and cable stations;
 - (i) public transport mode transfer facilities; and
4. Dams, rivers and water resources including-
- (a) reservoirs, levees, storage dams, barrages and weirs;
 - (b) canals, channels, aqueducts, river diversions and water transfers;
 - (c) flood control schemes;
 - (d) pipelines and water reticulation systems;
 - (e) projects or activities affecting other water sources such as ground water, springs and wells;
5. Aerial spraying.
6. Mining, mineral extraction including quarrying and open-cast extraction of-
- (a) precious stones, minerals and metals;
 - (b) coal;
 - (c) stone and slate;
 - (d) aggregates, sand and gravel;
 - (e) clay;
 - (f) tunneling.
 - (g) diamonds;
 - (h) limestone and dolomite;
 - (i) base metals.
7. Forestry related activities including-
- (a) clearance of forest areas;
 - (b) deforestation and afforestation;
 - (c) timber harvesting;
 - (d) propagation of invasive alien species.
8. Agriculture including-
- (a) large scale agriculture;
 - (b) use of agro-chemicals;
 - (c) introduction of new crops, animals and management practices;
 - (d) manufacture, handling, storage and transport of hazardous waste, chemicals and pesticides and other agro-chemicals;
 - (e) use of new pesticides;
 - (f) mass commercial production of livestock and battery and feedlot farming installations;
 - (g) release of any organism outside its natural area of distribution that is to be used for biological pest control;
 - (h) genetic modification of organisms and release of such organisms;
 - (i) large scale land reclamation.
9. Processing and manufacturing industries including-
- (a) brick and earthenware manufacture;
 - (b) explosives or ammunition plants;
 - (c) tanning and dressing of hides and skins;
 - (d) abattoirs and meat processing plants;

- (e) brewing and malting;
- (f) food processing plants;
- (g) bulk grain-processing plants;
- (h) mineral, processing reduction of areas or minerals;
- (i) smelting and refining of ores or minerals;
- (j) foundries;
- (k) plants for the manufacture or assembling of motor vehicles;
- (l) plants for the manufacture of textiles;
- (m) industries producing or utilizing hazardous substances or materials;
- (n) industries producing, handling, treating or disposing of effluent;
- (o) industries emitting major atmospheric pollutants;
- (p) industries transporting or storing hazardous substances or other chemical products;
- (q) industrial installations for the bulk storage of fuel;
- (r) bulk distribution facilities.

10. Energy and electric infrastructure including-

- (a) electrical generation stations;
- (b) electrical transmission lines;
- (c) electrical substations;
- (d) cable ways and cable way stations.
- (e) nuclear installations.

11. Waste handling, storage, transport, treatment and disposal including-

- (a) sites for solid waste disposal and wastewater treatment;
- (b) sites for hazardous waste disposal;
- (c) sewerage treatment and disposal works;
- (d) activities or practices that may produce offensive odours;
- (e) industrial effluent;
- (f) major atmospheric emissions;
- (g) transportation and storage of hazardous substances or waste;
- (h) recycling plants.

12. National conservation areas including-

- (a) creation of national parks and game reserves;
- (b) commercial exploitation of natural fauna and flora;
- (c) introduction of alien species of fauna and flora into ecosystems;
- (d) establishment of natural heritage sites;
- (e) formulation or modification of forest management policies;
- (f) formulation or modification of water catchment management policies;
- (g) policies for management of ecosystems, especially by use of fire;
- (h) any government policy on the use of natural resources.

13. Camp sites and hiking and ski trails developed for tourists.

14. Permanent racing and test tracks for cars and motorcycles.

15. Communication facilities, including telephone, television and radio transmission masts.

16. Projects or activities that could affect the following areas or features:

- (a) selected development areas;
- (b) protected natural environments, wilderness areas, nature reserves or national parks;

- (c) mountain catchment areas;
 - (d) national monuments;
 - (e) national heritage sites;
 - (f) archaeological and paleontological sites;
 - (g) graves and burial sites;
 - (h) national gardens of remembrance;
 - (i) conservation areas;
 - (j) sites of conservation significance;
 - (k) meteorites;
 - (l) lake areas.
17. Projects or activities that could affect any of the following areas or features which have been demarcated as such by central or local authority:
- (a) streams and river channels, and their banks;
 - (b) floodplains and wetlands;
 - (c) indigenous forests;
 - (d) high potential agricultural land;
 - (e) caves;
 - (f) green belts or public open space in municipal areas;
 - (g) buildings;
 - (h) battle sites;
 - (i) burial sites;
 - (j) immovable property;
 - (k) landscapes;
 - (l) islands in rivers;
 - (m) biotic assemblages and communities;
 - (n) habitat of Red Data Book species;
 - (o) architectural precincts;
 - (p) aquifers and aquifer recharge areas;
 - (q) areas with a high natural water table;
 - (r) damaged land;
 - (s) unstable soil;
 - (t) natural resource areas (including minerals);
 - (u) sites of geological significance;
 - (v) geologically and geo technically unstable areas;
 - (w) areas or sites of outstanding natural beauty;
 - (x) scenic drives and panoramic views;
 - (y) areas or sites of special scientific interest;
 - (z) areas or sites of religious or spiritual significance;
 - (za) areas or sites of special social, cultural or historical interest.
 - (zb) bird migration sites.
18. Any policy that will lead to projects which have or are likely to have an impact on the environment.

NOTE

- 1 Act No. 6 of 1996
- 2 Act No. 9 of 1993

- 3 Act No. 7 of 1966
- 4 Order No. 5 of 1972
- 5 Act No. 12 of 1967
- 6 Act No. 22 of 1975
- 7 Act No. 5 of 197