

## CHAPTER 2

# The Electoral Framework and Preparations for the Elections

### The Constitution

The present Constitution of Lesotho came into force on 2 April 1993. It provides for a Parliament consisting of the King, the Senate and the National Assembly. The Senate comprises the 22 Principal Chiefs and 11 other Senators nominated by the King in accordance with the advice of the Council of State. Unless sooner dissolved, Parliament continues for five years from the date when the two Houses first meet after dissolution. There is also a provision which requires that general elections be held within three months after dissolution of Parliament.

Eligibility to vote in general elections is based on universal adult suffrage for citizens who have reached the age of 18. The 1998 elections were the first since the age of eligibility was lowered to 18, under the National Assembly Election Order 1992, as amended.

### The Independent Electoral Commission

An Independent Electoral Commission (IEC) was established in September 1997. The Commission derives its existence and authority from the Constitution. Further relevant provisions are contained in the National Assembly Election Order 1992 and subsequent amendments.

The IEC is made up of a Chairman and two other Commissioners. They are appointed by the King on the advice of the Council of State for a term of six years. That term may be renewed once.

The Constitution states that “the Electoral Commission shall not, in the performance of its functions, be subject to the direction or control of any person or authority.” The independence of the IEC is further reinforced by constitutional provisions which state that its funds shall be provided by Parliament and charged on the Consolidated Fund.

The Constitution and the National Assembly Election Order require that the Commission and its members perform their functions impartially and independently, in good faith and without fear, favour or prejudice. During their term of office the members of the Commission are ineligible for nomination or appointment to any other public office and are not allowed to give support to or oppose any party or candidate participating in an election, or in any manner place in jeopardy their independence, impartiality or the integrity of the IEC.

The members have security of tenure and can be removed only by the King on the recommendation of a judicial tribunal for inability to exercise their office or for misbehaviour.

The IEC is responsible for the organisation, conduct and supervision of elections. Its functions include:

- the preparation of the voters' register;
- the registration of political parties;
- the demarcation of electoral boundaries; and
- voter education.

Man on horseback . . . a Commonwealth observer greets an elector in the Highlands. Although the Independent Electoral Commission tried to ensure that polling stations were located as close as possible to the people, some voters still had to walk or ride for several hours



The IEC is further responsible for monitoring legislation relating to elections and referenda and the establishment of committees to assist it in carrying out its functions. It must appoint 10 area election officers.

The current Chairman of the IEC is Mr Sekara Sam Mafisa, a lawyer. The other members of the Commission are Mr Letjea Qhobela, formerly Chairman of the Public Service Commission, and Mr Moriee Khaebana, a former Clerk of the National Assembly.

At the time of these elections the IEC was supported by 150 staff at its headquarters in Maseru and at its area offices. The chief executive of the IEC is the Director of Elections, who is appointed by the Commission. The present Acting Director is Mr Mphasa Mokhochane.

Liaison with the political parties is assisted by the nomination of two representatives per party who are charged with maintaining contact with the IEC. Meetings between the IEC and the parties are held at the request of either side.

### **Voter Registration**

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The Director of Elections is required to establish and maintain a general register of electors derived from applications for registration and setting out the elector's name, address, sex and date of birth and identifying number. Citizens of Lesotho who are 18 years old are, unless disqualified under the Constitution, required to apply to be registered as electors for the constituency where they originate, ordinarily reside or are employed. Political parties contesting an election have the right to monitor the registration of electors through designated representatives assigned to specific registration centres. Members of the public are entitled to inspect the provisional register and the political parties are entitled to receive copies as soon as practicable, in both cases without charge.

After its creation in September 1997, the IEC undertook a complete re-registration of voters, first to take account of the new requirement for a Voter Identification Card bearing the photograph of the elector, and second the lowering of the minimum age of voting from 21 to 18 years. Voter registration commenced on 5 January and ended on 10 March 1998. As at that date, 836,000 people had registered – estimated by the IEC as 75 per cent of those eligible. The registration details were held in the IEC's computer system.

The National Assembly Election Order provides that immediately after the dissolution of the National Assembly or when it appears that a general election is to be held the IEC is required to prepare a provisional version of the general

register and to ensure that this, or an extract relating to the area concerned, is published within each electoral area. The provisional voters' list was displayed from 14 to 19 April 1998 at the registration centres.

### **Other Categories of Voters**

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The National Assembly Election Order makes provision for electors who by reason of their duties on election day, or employment by the Government of Lesotho overseas, are unable to vote in the constituency in which they are registered, to vote as absent electors. Provision was made for election officials, security and defence personnel and others who would be involved in polling day duties to vote on 19 May.

### **Registration of Political Parties**

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The National Assembly Election Order provides that no political party can endorse a candidate for election unless it is registered with the IEC. Parties do not qualify to be registered unless their membership is voluntary and open to all citizens of Lesotho without discrimination. An application for registration must be accompanied by a declaration signed by not less than 500 members of the party whose names appear on the general register of electors.

### **Demarcation of Electoral Boundaries**

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The National Assembly elections of 1998 were to be contested in 80 constituencies, containing roughly equal numbers of persons of voting age, an increase of 15 on the number contested in 1993. Constituency boundaries were redrawn by the IEC prior to these elections. The IEC is required to review constituency boundaries at intervals of not less than eight nor more than 10 years, and may order their alteration in light of that review. Provision is also made for the IEC to carry out such a review and to make alterations to boundaries after a census.

### **Nominations**

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A general election of members of the National Assembly is held on a day fixed by proclamation directed to the Commission. The Director of Elections is required to publish *inter alia* a notice specifying the date on which nomination of candidates is to close, and a place in each constituency where a nomination court is to consider nominations.

The National Assembly Election Order sets out the procedure for nominating candidates for election. It provides *inter alia* that returning



Airborne . . . a Lesotho Defence Force aircraft (top) delivers election equipment to a district capital prior to election day: the supplies were then taken to the IEC area office for sorting (centre), before LDF helicopters (bottom) ferried the repackaged kits to officials waiting at remote polling stations

officers are not to accept nominations of candidates for election unless they are proposed and seconded by two persons whose names appear on the electoral list for that constituency. Candidates are required to sign a statement consenting to nomination. Candidates of a political party must be certified by that party. A representation of the party's registered official symbol is also required. There is a like requirement for independent candidates.

Where there are two or more candidates nominated a deposit of M200 must be lodged on behalf of each candidate. That deposit is forfeited if an unsuccessful candidate receives less than 10 per cent of the votes cast.

### **Voter Education and Training**

The IEC is charged, under the National Assembly Election Order, with the promotion of voter education through the media and other appropriate and effective means. Accordingly, it carried out an extensive voter education campaign by radio and television and the print media from soon after its establishment, and distributed educational posters in Sesotho as well as in English to convey information about

the process. Samples of such posters are reproduced as *Annex VIII*. However, the staff resources allocated by the IEC to voter education were stretched, and the IEC was unable to field voter education teams to go into towns and villages to engage directly with the people on, for instance, the method of voting. The Lesotho Council of NGOs and the churches also both organised voter education programmes.

It was apparent that the IEC had provided ample training for election officers. It also undertook training first at political party level and then with prospective candidates and their agents. It organised one-day workshops for the parties and prospective candidates to discuss the electoral laws and process. It also instituted a field-training exercise before nomination day and provided a manual to assist them.

### **Assistance**

The IEC received assistance from a number of countries and international organisations including the Commonwealth, which provided two technical experts and one legal adviser, and the United Nations Development Programme.