



# LESOTHO

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## ACT NO. 2 OF 2022

**National Identity Cards (Amendment) Act, 2022**

An Act to amend the National Identity Cards Act, 2011<sup>1</sup>.

Enacted by the Parliament of Lesotho.

**Short title and commencement**

1. This Act may be cited as the National Identity Cards (Amendment) Act, 2022 and shall come into operation on the date of its publication in the Gazette.

**Interpretation**

2. The National Identity Cards Act, 2011 (to be called “the principal Act”) is amended in section 2 by -

- (a) deleting the definition of “indefinite residence permit” and any where the phrase “indefinite resident permit” appears in the Act;
- (b) inserting the following definition after the definition of the word “prescribed”:

“refugee” means any person who -

- (a) owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion;
    - (i) is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country;
    - (ii) or not having nationality and being outside the country of his former residence, is unable or owing to such fear, is unwilling to return to it;
- or

- (b) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either the whole or part of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country or origin or nationality; and
- (c) belongs to a class of persons declared by the Minister to be refugees for reasons set out in paragraph(a) or (b).

### **National Identity Register**

3. Section 3 of the principal Act is amended -

- (a) in subsection (2)(a) -
  - (i) by inserting “, refugees” after the word “Lesotho” and before “non-citizens”;
  - (ii) in line 3, by deleting “an indefinite residence permit of Lesotho” after “holding” and substituting “a residence permit as may be prescribed under the Aliens Control Act, 1966<sup>2</sup> or any other law replacing it”; and
- (b) in subsection (2)(b) by inserting “or any other person as may be prescribed” before “;”.

### **Persons to be entered in the Register**

4. Section 4 of the principal Act is amended by repealing subsection (2) and substituting the following subsection:

(2) “The Director shall enter particulars of identity of the following persons into the Register:

- (a) a citizen of Lesotho;
- (b) a refugee;

- (c) a non-citizen holding a residence permit of Lesotho as may be prescribed under the Aliens Control Act, 1966 or any other law replacing it; and
- (d) any other person as may be prescribed.”.

### **Access to the Register and confidentiality of information**

5. Section 6 of the principal Act is amended by -

- (a) inserting the following new subsection after subsection (2):

“(2a) Information provided to a third party and legal person pursuant to subsection (2) shall be provided at a prescribed fee.”;
- (b) deleting subsection (3) and substituting the following subsection:

“(3) Subsection (1) shall not apply to -

  - (i) a person who seeks access to information relating to himself; and
  - (ii) a parent or guardian who seeks information on behalf of a minor child in his custody, entered in the Register”.
  - (c) deleting subsection (4) and substituting the following subsection:

“(4) A person who provides adequate proof of his identity has the right to request from the Director, description of his personal information entered in the Register and the information shall be provided within a reasonable time”.
  - (d) deleting subsection (6) and substituting the following subsection:

“(6) A person who has requested that his information be corrected or updated shall provide credible evidence of the corrected or updated information which shall be verified by the Director in accordance with this Act”.

- (e) by inserting the following new subsection after subsection (6):

“(6a) A parent or guardian may be granted privileges and duties prescribed in subsections (4), (5) and (6) on behalf of a minor child in his custody”.

### **Data Security**

6. Section 7 of the principal Act is amended -

- (a) in subsection (1) by inserting “information of another person” after “communicate”;
- (b) in subsection (1)(b) by deleting “or”;
- (c) in subsection (1)(c) by deleting “.” and substituting it with “;”;
- (d) after subsection (1)(c), by inserting the following new paragraphs:
  - “(i) investigations or law enforcement;
  - (ii) national security and defence;
  - (iii) parliamentary investigations; and
  - (iv) any other purpose that the Minister may prescribe.”.

### **Data accuracy and quality**

7. Section 8 of the principal Act is amended in subsection (3) by deleting “to whom an identity card has been issued” and substituting “whose particulars

have been entered into the Register”.

### **Power to issue an identity card**

8. Section 11(2) of the principal Act is amended by deleting the words “or any other officer” after “Director.”.

### **Information on an identity card**

9. Section 12 of the principal Act is amended -

- (a) in subsection (1) by deleting subparagraph “(i)” and substituting the following subparagraph:

“(i) name of the country;”;

- (b) by repealing subsection (2) and substituting the following subsection:

“(2) The 2D Barcode of an identity card shall contain the following information:

- (a) national identity number;
- (b) full names and surname of bearer;
- (c) date of birth of bearer;
- (d) sex of bearer; and
- (f) print of either one of the following fingers:
  - (i) right index;
  - (ii) right thumb;
  - (iii) left index;
  - (iv) left thumb; or

- (v) any other finger where an applicant does not have either of the fingers mentioned in subparagraphs (i) to (iv); or
- (vi) biographic information where the applicant does not have any of the fingers”.

### **Eligibility for identity card**

10. Section 13 of the principal Act is amended -

- (a) in paragraph (a) by deleting “and” at the end of paragraph (a);
- (b) in paragraph (b) by deleting -  
  
“a non-citizen holding an indefinite residence permit of Lesotho” and substituting “a non-citizen holding a residence permit in accordance with the Aliens Control Act, 1966 or any other law replacing it; and
- (c) by inserting the following new paragraph after paragraph (b):  
  
“(c) a refugee.”.

### **Application for identity card**

11. Section 14 (2) of the principal Act is amended -

- (a) in subsection (2) by repealing paragraph (a) and substituting the following paragraph:  
  
“(a) where a person is -
  - (i) a refugee, the person shall, submit a letter from the office of the



Commissioner for Refugees indicating his refugee status and a birth certificate or if he does not have a birth certificate he shall submit an affidavit as to birth;

- (ii) a naturalised or registered Mosotho, the person shall, submit a certificate of registration or naturalisation and a birth certificate and if he does not have a birth certificate he shall, submit an affidavit as to birth and a letter from the country of origin certifying his date of birth.”; and
- (iii) holding a residence permit as prescribed by the Aliens Control Act, he shall submit the permit and a birth certificate, and if he does not have a birth certificate, he shall submit an affidavit as to birth and a letter from the country of origin certifying his date of birth.

### **Application for renewal or replacement of identity card**

12. Section 15 of the principal Act is amended -

- (a) in subsection (1) “by inserting “defaced” after “stolen,”;
- (b) in subsection (2) by inserting “or defaced” after “expired”.

### **Insertion of a new section**

13. After section 15 of the principal Act, the following new section is inserted:

#### **“Change or error on the identity card**

15A. A person whose identity card has been issued shall notify the Director about -

- (a) a change which affects the information on the identity card about him; or
- (b) an error of information on the identity card in the register which he is aware of.”

### **Cancellation and surrender of an identity card**

#### **14. Section 17 of the principal Act is amended -**

- (a) in subsection (1) -
  - (i) by deleting “Director” and substituting “Minister”;
  - (ii) paragraph (a) by inserting “or misrepresentation” after “information”;
  - (iii) paragraph (c) by deleting “or” after “,”;
  - (iv) paragraph (d) by deleting “.” at the end of paragraph (d) and substituting the following: “,” and “or”;
  - (v) by inserting the following new paragraph after paragraph (d):

“(e) it is in the interest of the national security.”.
- (b) in subsection (2), by inserting “to the issuing authority” at the end of the sentence;
- (c) in subsection (3), by inserting “to the issuing authority for cancellation” at the end of the sentence; and
- (d) in subsection (4) by -
  - (i) deleting “.” after “kin”;
  - (ii) inserting after “kin” the words “or by anybody

who has knowledge of the death and the death certificate of the deceased issued in terms of the law governing births and deaths.”.

### **Offences and penalties**

15. (1) Section 19(b) is amended in subparagraph (ii) by deleting the words “the police, the Department responsible for identity cards or any other department of Government” and substituting “or local authority”.

(2) After section 19 of the principal Act, the following new section is inserted:

#### **“General penalty**

19A. A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine not exceeding fifteen thousand Maloti or to imprisonment for a period not exceeding ten years or both.”.

#### **NOTE**

1. Act No. 12 of 2011
2. Act No. 16 of 1966

## GOVERNMENT NOTICE NO. 19 OF 2022

**The Parliament of Lesotho****Statement of Objects and Reasons of the  
National Identity Cards (Amendment) Act, 2022**

**(Circulated by the Authority of the Minister responsible for home affairs  
Honourable Motlalentoa Letsosa)**

The object of the Bill is to amend the National Identity Cards Act, 2011<sup>1</sup> in order to amend different provisions so as to enhance issuance of national identity cards and other matters incidental matters.

The Bill introduces a 2D Barcode which is a machine readable representation of data relating to a person. The 2D Barcode replaces the chip on the national identity card. The Bill provides for a category of persons who are to be included in the National Identity Register. The category includes the refugees and any other person as may be prescribed in the regulations.

According to the Bill, the Director is responsible for the National Identity Register and the national identity cards. The Bill further prohibits publication or communication of information in the Register except for purposes of investigations in terms of this law, those relating to national security, Parliament and any other purpose that the Minister may by regulations prescribe.

Furthermore, the Bill makes provision for a prescribed fee for information provided to a third party and a juristic or legal person.

**NOTE**

1. Act No. 12 of 2011