IN THE HIGH COURT OF LESOTHO

HELD AT MASERU **CONSTITUTIONAL CASE NO: 0021/2025**

In the matter between: -



THE LAW SOCIETY OF LESOTHO **APPLICANT**

AND

SPEAKER OF THE NATIONAL ASSEMBLY
AND 3 OTHERS **RESPONDENTS**

AND

CONSTITUTIONAL CASE NO: 0023/2025

KANANELO BOLOETSE AND ANOTHER **APPLICANTS**

AND

HIS MAJESTY THE KING AND 6 OTHERS **RESPONDENTS**

Court Order

Before the Honourable S. P. Sakoane CJ, Honourable M. Makhetha J and Honourable Dr. I. Shale J on the 10th November 2026.

Having read: papers filed of record

And having heard: Adv. L. Tuke for the applicant

Adv. F. Sehapi for the applicants

And

Adv. M. E. Teele KC for the respondents and assisted by

Adv. L. A. Molati for the respondents

In Constitutional case No.0021/2025 and No.0023/2025 challenging sections 4 and 5 of the 10th Amendment to the Constitution which provides as follows:

Insertion of a new section 20A: Affirmative action in favour of marginalised groups

4. The Constitution is amended by inserting the following section after section 20:

"Affirmative action in favour of marginalised groups

20A (1) Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history or law, for the purpose for redressing imbalances which exist against them.

(2) Parliament shall make laws for purposes of giving effect to this section.

Insertion of a new section 22A: Public Interest

5. The Constitution is amended by inserting the following section after section 22:

"Public interest

22A. (1) The following persons may approach a competent court where any or all of them reasonably believe or believes that a right in the Constitution has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights:

a) a person acting in his or her own interest;

b) a person acting on behalf of another person who cannot act on his or her own;

c) a person acting as a member of, or in the interest of, a group or class of persons;

d) a person acting in the public interest; and

e) an association acting in the interest of its members or any other members of society.

(2) An Act of parliament shall make provision for the exercise of the right under this section"

It is ordered that: -

1. An order is hereby issued calling upon organised groups that have a direct interest in the orders sought, in particular prayers 4, and 5 in CC0023/2025 which read as follows:-

   "4) Striking down sections 4 and 5 of the Tenth Amendment to the Constitution Act 2025 for being unconstitutional, null and void ab initio for violation of section 85 of the 1993 Constitution of Lesotho.

   5) Setting aside all acts taken in the implementation of sections 4 and 5 of the Tenth Amendment to the Constitution Act 2025 for being unconstitutional.

   And prayer (c) in CC0021/2025 which reads as follows:

   c) That sections 20A and 22A in the Tenth Amendment to the Constitution Act, 2025 be declared unconstitutional under section 2 of the original constitutional text, 1993 for violating procedural requirements laid under section 85(3) (a) of the latter Constitution.

2. Any interested party mentioned in the preamble and interested to join, must file their papers on or before the lapse of 30 days from the date of a single publication in the print, electronic and audio media in Lesotho.

3. Parties are at liberty to uplift the pleadings in the said constitutional cases to enable them to answer thereto.

4. The applicants shall reply within 30 days of the receipt of the papers of the interested parties and similarly the respondents shall answer within 30 days of receipt of papers of those joining as applicants and file their Heads of Arguments 7 days before the date of hearing.

5. The matter is postponed to the **2nd and 3rd March 2027** for hearing at **09:30 hrs**.

By Order of Court

SAKOANE P. SAKOANE
Honourable Chief Justice

Signature

MALIEPELLO MAKHETHA
Honourable Judge

Signature

ITUMELENG SHALE
Honourable Judge

Signature

LEBOHANG LEGA
Registrar

Signature

ASSISTANT REGISTRAR OF
HIGH COURT
COMMISSIONER OF OATHS

10 NOV 2026

MASERU 100, LESOTHO