# DOMAIN NAME AUTHORITY AND ADMINISTRATION

## 

## Interpretation

**1**. In this Act, unless the context otherwise requires:-

“appointing authority” means, in the case of members of the Board of the Domain Name Authority, the Minister or any other body or person vested with powers to make appointments;

“ccTLD” means country code domain at the top level of the Internet’s domain name system;

“domain name” means an alphanumeric designation that is registered or assigned in respect of an electronic address or other resource on the Internet;

“Domain Name Authority” means the authority responsible for facilitation and regulation of .ls domain name space referred to in section 79;

“domain name repository” means the primary register of the information maintained by a registry;

“domain name system” means a system to translate domain names into IP addresses or other information;

“.ls domain name space” means the .ls ccTLD assigned to the Kingdom of Lesotho;

"registrant” means an applicant for or holder of a domain name;

“registrar” means an organisation which is licensed by the Domain Name Authority to update a repository;

“registry” means an organisation licensed by the Domain Name Authority to manage and administer a specific subdomain;

second level domain” means the subdomain immediately following the ccTLD;

“subdomain” means any subdivision of the .ls domain name space which begins at the second level domain;

# Part A

# Establishment of Domain Name Authority

## Incorporation of Domain Name Authority

**2.** (1) The Minister shall, *[within 12 months of the date of commencement of this Act]*, take all steps necessary for the incorporation of the Domain Name Authority as a body corporate pursuant to *[reference to the relevant section of the Companies Act or corresponding legislation]* with a common seal, perpetual succession, capable of suing and being sued and subject to this Act, capable of performing such acts as bodies corporate may, bylaw, perform.

(2) All citizens and permanent residents of the Kingdom of Lesotho and corporations incorporated under *[reference to the relevant law – the Companies Act]* are eligible for membership of the Domain Name Authority and must be registered as members upon application and on payment of a nominal fee to cover the cost of registration of membership and without having to comply with any formality.

(3) For the purpose of the incorporation of the Domain Name Authority a person representing the Minister and *[you may wish to include entities/organisations currently administering the ls. domain name]* as at the date of application for incorporation must be deemed to be members of the Domain Name Authority.

## Domain Name Authority's memorandum and articles of association

**3.** (1) The memorandum of association and articles of association of the Domain Name Authority must be consistent with this Part and, except where this Part, provides to the contrary, also with the *[reference to the relevant law – the Companies Act]*.

*(2)* Notwithstanding *[reference to the relevant law – the Companies Act],* an amendment to the memorandum of association or articles of association affecting any arrangement made by any provision of this Part, does not have any legal force and effect unless the Minister has consented in writing to such an amendment, which consent may not be withheld unreasonably.

(3) No fee is payable in terms of the *[reference to the relevant law – the Companies Act]*, in respect of the reservation of the name of the company, the registration of the said memorandum and articles and the issue of the certificate to commence business.

(4) The memorandum and articles of association of the Domain Name Authority must, amongst others provide for-

*[to be specified]*

# Part B

# Governance and staffing of Domain Name Authority

## Board of directors of Domain Name Authority

**4.** (1) The powers and duties of the Domain Name Authority shall be exercised and performed by a Board consisting of *[to be specified]* members including the Chief Executive *[or the Chairman]* appointed by the appointing authority through a competitive and transparent selection procedure.

(2) *[to be specified]* candidates for appointment shall be selected and forwarded to the appointing authority by an Appointments Recommendation Committee which shall consist of- *[to be specified]*

(3) The appointing authority shall invite nominations for members of the Board from the public through newspapers which have general circulation throughout the Kingdom of Lesotho, on-line news services, radio and by notice in the Gazette.

(4) Nominations must be made to the Appointments Recommendation Committee in terms of subsection (2).

(4) In selecting the candidates in terms of subsection (2), the Appointments Recommendation Committee shall select persons who:

1. collectively have knowledge or qualifications or experience in the fields of telecommunications and information technology, national and international domain names administration, economics, accounting, engineering, public policy, business practice, finance, law or any other relevant experience; and
2. represent the following sectors of stakeholders:
   1. the existing Domain Name community;
   2. academic and legal sectors;
   3. science, technology and engineering sectors;
   4. telecommunications and IT sectors;
   5. public sector;
   6. Internet user community
   7. Others *[to be specified]*

(5) If the appointing authority is not satisfied that the Appointments Recommendation Committee with subsection (4), the appointing authority may request the Appointments Recommendation Committee to review its recommendations and make new ones.

(6) All board members serve in a part-time and non-executive capacity.

(7) Any vacancy on the Board must be filled in accordance with subsections of this section 81.

## Staff of Domain Name Authority

**5.** (1) [*to be specified*]

# Part C

# Functions of Domain Name Authority

## Licensing of registrars and registries

**6.** (1) No person may update the domain name repository or administer a second level domain unless such person is licensed to do so by the Domain Name Authority.

(2) An application to be licensed as a registrar or registry must be made in the prescribed manner and subject to the prescribed fees.

(3) The Domain Name Authority must apply the prescribed conditions and criteria when evaluating an application referred to in subsection (2).

## Re-delegation

**7.** (1) The Domain Name Authority shall, *[in accordance with the direction from the Minister]* take all steps necessary to achieve re-delegation by the Internet Corporation for Assignment Names and Numbers of .ls ccTLD from the parties that are actively involved in the management and administration of the .ls ccTLD domain name space at the date of its establishment to the Domain Name Authority.

(2) The Domain Name Authority must respect and uphold the vested rights and interests of parties that were actively involved in the management and administration of the second level domains at the date of its establishment: Provided that -

1. such parties must be granted a period of *[six months]* during which they may continue to operate in respect of their existing delegated second level domains; and
2. after the expiry of the *[six-month]* period, such parties must duly apply to be licensed registrars and registries as provided for in this Part.

## Functions of Domain Name Authority

**8.** (1) The Domain Name Authority shall have the following functions-

1. administer and manage the .ls domain name space;
2. comply with international best practice in the administration of the .ls domain name space;
3. license and regulate registries;
4. license and regulate registrars for the respective registries; and
5. publish guidelines on -
6. the general administration and management of the .ls domain name space;
7. the requirements and procedures for domain name registration; and
8. the maintenance of and public access to a domain name repository,

with due regard to the policy directives which the Minister may make from time to time by notice in the *Gazette.*

(2) The Domain Name Authority must enhance public awareness on the economic and commercial benefits of domain name registration.

(3) In exercising its functions under subsection (1) the Domain Name Authority -

1. must conduct research into and keep up to date with the best international domain name administration and registration practice developments;
2. must continually survey and evaluate the extent to which the .ls domain name space meets the needs of the citizens of the Kingdom of Lesotho;
3. may, from time to time, seek views of the public and industry stakeholders;
4. may liaise, consult and co-operate with any person or other authority;
5. may appoint experts and other consultants on such conditions as the Domain Name Authority may determine; and
6. may, from time to time, issue information on the registration of domain names in the Kingdom of Lesotho.

(4) The Domain Name Authority may, and must when so requested by the Minister, make recommendations to the Minister in relation to policy on any matter relating to the .ls domain name space.

(5) The Domain Name Authority must continually evaluate the effectiveness of this Act and steps undertaken in terms thereof towards the management of the .ls domain name space.

# Part D

# Finances and reporting

## Finances of the Domain Name Authority

**9.** (1) The Domain Name Authority’s funds shall consist of-

1. such monies as may be appropriated by Parliament;
2. such fees as the Domain Name Authority may impose for services provided under this Act;
3. such fees as the Domain Name Authority may impose for licenses issued under this Act;
4. such other fees or monies as the Domain Name Authority may, by virtue of this Act, raise or impose;
5. grants, contributions or endowments from any other source; and
6. loans.

(2) The Domain Name Authority shall use the funds raised under this Act to meet the cost of its operations and shall use any surplus accrued for the promotion and development of .ls domain name space.

(3) The funds of the Domain Name Authority shall be administered through a bank account approved by the Minister after consultation with the Minister responsible for finance.

(4) The Domain Name Authority shall issue policies and procedural rules necessary to administer the funds, with approval of the minister responsible for finance.

## Annual Budget

**10**. (1) The Domain Name Authority shall, not less than 2 months before the beginning of its financial year, which shall be April 1, submit a budget for its annual operations to the Minister.

(2) The Minister shall review and approve the Domain Name Authority’s budged for annual operations.

(3) The annual budget shall be publicly available.

## Accounts and audit

**11**. (1) The Domain Name Authority shall keep proper accounts of its operations in compliance with international accounting standards.

(2) The Auditor-General shall appoint an independent, qualified and internationally recognised accounting firm to audit the accounts of the Domain Name Authority annually.

(3) The Domain Name Authority shall, within 3 months after the end of the financial year, submit the auditor’s report to the Minister.

(4) The accounts of the Domain Name Authority and the annual audit report of such accounts shall be publicly available.

## Annual report of activities

**12**. (1) The Domain Name Authority shall, within 6 months after the end of the financial year or such other period as the Minister may approve, submit a comprehensive report on its operations to the Minister.

(2) The Minister shall cause a copy of the report, within 30 days of its receipt, together with the auditor’s report and the audited accounts to be laid before Parliament.

# Part E

# Regulations

## Regulations by Domain Name Authority

**13.** The Domain Name Authority may, with the approval of the Minister, make regulations regarding-

1. the requirements which registries and registrars must meet in order to be licensed, including objective standards relating to operational accuracy, stability, robustness and efficiency;
2. the circumstances and manner in which registrations may be assigned, registered, renewed, refused, or revoked by the registries with due regard to the express recognition of the right of groups and members of groups within the Kingdom of Lesotho to identify with, use or communicate cultural, linguistic, geographical, indigenous or any other expressions of heritage including any visual or audible elements or attributes thereof;
3. pricing policy;
4. provisions for the restoration of a domain name registration and penalties for late payments;
5. the terms of the domain name registration agreement which registries and registrars must adopt and use in registering domain names, including issues in respect of privacy, consumer protection and alternative dispute resolution;
6. processes and procedures to avoid unfair and anti-competitive practices, including bias to, or preferential treatment of actual or prospective registrants, registries or registrars, protocols or products;
7. requirements to ensure that each domain name contains an administrative and technical contact;
8. the creation of new subdomains;
9. procedures for ensuring monitoring of compliance with the provisions of this Act and the regulations provided for in this Part, including regular .ls domain name space technical audits;
10. such other matters relating to the .ls domain name space as it may be necessary to prescribe to achieve the objectives of this Part; and
11. policy to be applied by the Domain Name Authority.

# Part F

# Alternative dispute resolution

## Alternative dispute resolution

**14.** (1) The Minister, in consultation with the Minister of Trade, Industry, Cooperatives and Marketing must make regulations for an alternative mechanism for the resolution of disputes in respect of the .ls domain name space.

(2) The regulations must be made with due regard to existing international precedent.

(3) The regulations may prescribe-

1. procedures for the resolution of certain types of disputes determined in the regulations and which relate to a domain name registration;
2. the role which the Domain Name Authority must fulfil in administering the dispute resolution procedure;
3. the appointment, role and function of dispute resolution adjudicators;
4. the procedure and rules which must be followed in adjudicating disputes;
5. unlawful actions or activities in respect of domain names, distinguishing between criminal and civil liability;
6. measures to prevent unlawful actions or activities with respect to domain names;
7. the manner, costs of and time within which a determination must be made;
8. the implementation of determinations made in terms of the dispute resolution procedure;
9. the limitation of liability of registrars and registries for implementing a determination; and
10. the enforcement and publication of determinations.