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LEGAL NOTICE NO. 85 OF 2018

**Financial Institutions (Financial Lease) (Amendment)
Regulations, 2018**

Pursuant to section 71(1) of the Financial institutions Act, 2012¹, I,

DR. RETŠELISITSOE MATLANYANE

Commissioner of Financial Institutions, make the following Regulations -

Citation and commencement

1. These Regulations may be cited as the Financial Institutions (Financial Lease) (Amendment) Regulations, 2018 and shall come into operation on the date of publication in the Gazette.

Characteristics of a financial lease

2. Regulation 5 of the Financial Lease Regulations 2013², referred to in this law as the Principal Law, is amended by inserting at the beginning of paragraph (i) the following:

“a written”

Right and duties of lessee

3. Regulation 7 of the Principal Law is amended by deleting the second subregulation “7(4)” which appears at the end of the Regulation and substituting subregulation “7(6)”.

Duties of Supplier

4. The Principal Law is amended by deleting regulation 9(1) and renumbering accordingly.

Acceptance of an asset

5. Regulation 12 of the Principal Law is amended by deleting subregulation “(1)(b)” and substituting the following:

“(1)(b) fails to reject and return the asset within a period of seven days from the delivering of the asset; or”.

Pre-emptive notice and registration of financial lease

6. Regulation 16 of the Principal Law is amended -
- (a) in subregulation (1) by deleting in line 1, after lessor, “is” and substituting the following:

“shall” and
 - (b) by deleting subregulation “(3)”.

Transfer of rights and duties

7. Regulation 18 of the Principal Law is amended by deleting in subregulation (5), substituting the following words:

“which may not be reasonably withheld”.

Notice of default

8. Regulation 22 of the Principal Law is amended by -
- (a) deleting subregulation (1) and substituting the following:

“(1) A lessor shall, where a lessee commits a default by failing to comply with any of the terms and conditions of a finance lease, serve the lessee with a notice of default -

 - (i) by personal delivery, certified mail, facsimile or electronic mail;
 - (ii) specifying in the notice, the circumstances which caused the default of the lease;” and
 - (iii) appointing a date which is not less than fourteen days for remedying the default.”

- (b) deleting subregulation (2) and substituting the following -

“(2) If a lessee fails to remedy the default in terms of subregulation (1), on or before the date appointed, the lessor shall serve a notice of termination and enforcement to the lessee, by personal delivery, certified mail, facsimile or electronic mail,” and

- (c) deleting in subregulation (3), the following words:

“which shall also be filed in the registration system”.

Termination

9. Regulation 25 of the Principal Law is amended by deleting subregulation (4), and substituting the following:

“(4) Upon termination of a finance lease by the lessor as provided in subregulation (2), the lessor shall have the right to recover damages which will place the lessor in a position he would have been if the lessee had complied with the provisions of the financial lease in accordance with its terms and conditions.”

Possession and disposition at the end or termination of possession

10. The Principal Law is amended by deleting regulation 26 and substituting the following:

“Possession and disposition at the end or termination of possession

26. (1) Upon the expiration of -
- (a) a period of a lease;
 - (b) its prior termination; or
 - (c) on the failure to adhere to the terms and conditions of the lease by the lessee, including the failure to pay lease rentals,

the lessee shall immediately return the asset to the lessor, subject to fair wear and tear.

(2) In the event of a lessee's failure to return the asset to the lessor, the lessor has the right to:

(a) take possession of the asset without resorting to judicial process; and

(b) dispose the asset immediately.

(3) A lessor shall have an absolute right to dispose of an asset without prejudice and delay.

(4) Where a lessor has failed to comply with the obligation to give notice in conformity with these regulations, the lessee is entitled to damages.

Licencing of financial lease company

11. Regulation 29(4) of the Principal Law is amended by deleting "Notwithstanding" "subregulation (2)" and substituting the following:

"Subregulation (3)".

Special requirements for a bank credit only and deposit taking micro-finance institution, to engage in financial leasing

12. Regulation 30 of the Principal Law is amended -

(a) by deleting "subregulation (2)" and substituting the following:

"(2) Notwithstanding regulation 27(2), a bank, a credit-only and deposit taking micro-finance institution which intends to operate a financial leasing business, shall apply for approval in writing, to the Commissioner. ";

(b) by deleting "subregulation (4)", and substituting the following:

"(4) A bank, credit-only and deposit taking micro-finance

institution seeking approval for an application made in terms of subregulation (2), is required to make a presentation on its business plan to the Commissioner.”;

- (c) by deleting “subregulation (5)” and substituting the following:

“(5) Where the Commissioner approves an application made under subregulation (2), the Commissioner shall grant the bank, credit-only and deposit taking micro-finance institution, permission to operate a financial lease licence business within thirty days after the date of submission of the application”; and

- (d) in subregulation (6), by inserting in line 1, after “bank”, the following:

“credit-only and deposit taking micro-finance institution.”

Capital requirements

13. The Principal Law is amended by deleting regulation 31(1)(a) and renumbering accordingly.

DATED:

DR. RETŠELISITSOE MATLANYANE
COMMISSIONER OF FINANCIAL INSTITUTIONS

NOTE

1. Act No. 3 of 2012
 2. L.N. No. 39 of 2013
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LEGAL NOTICE NO. 86 OF 2018

Lesotho National Development Corporation Board of Directors (Amendment) Notice, 2018

Pursuant to section 8(3)(c) of the Lesotho National Development Corporation Act, 1990¹, I,

TEFO MAPESELA

Minister responsible for trade and industry make the following notice:

Citation and commencement

1. This Notice may be cited as the Lesotho National Development Corporation Board of Directors (Amendment) Notice, 2018 and shall come into operation on the date of publication in the Gazette.

Amendment

2. The Lesotho National Development Corporation Board of Directors Notice, 2017² is amended in clause 2 -

- (a) by deleting “Mr. Thebe Mokoatle” and substituting “Mr. Mochaba Soaile”; and
- (b) by deleting “Mr Khomoatsana Tau” and substituting “Mrs Tseleng Mamosotho Mokhehle”.

DATED: 01 NOVEMBER, 2018

**TEFO MAPESELA
MINISTER OF TRADE AND INDUSTRY**

NOTE

- 1. Act No. 13 of 1990 as amended by Act No. 7 of 2000
 - 2. L.N. No. 80 of 2017
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LEGAL NOTICE NO. 87 OF 2018

**Declaration of Land Set Aside for Public Purposes
Ha Teko Area Notice, 2018**

In exercise of the powers conferred on me by section 51 of the Land Act, 2010¹,
I,

HABOFANOE LEHANA

Minister of Local Government and Chieftainship Affairs, after having consulted with Mazenod Community Council and Maseru District Council hereby declare that the land described in this Notice is set aside for public purposes.

Description: Every right or interest in and to the land (fields) described as agricultural land delineated on cadastral plans No. 12312, 12314, 13311 and part of 13313 and part of 13313 held in the office of Chief Surveyor, Maseru, in extent 42.8 square kilometers (428) hectares more or less situated at Ha Teko Maseru District.

Lessee: Field owners of Ha Teko Maseru district or their heirs.

Purpose: The land is required for Town Planning Scheme.

Date of Surrender: On the date of publication of this Notice in the Gazette, all interests in or affecting the said land shall cease to subsist and the allottees' interest in the land shall revert to the State.

Compensation: Compensation is estimated at Three Hundred Million Maloti (M300,000,000.00) or more or less and shall be apportioned to the claims accordingly.

Claims: Any person having any claim in the land set aside may submit his claim for compensation to me by forwarding the details thereof to the Commissioner of Lands P.O. Box 876, Maseru 100 within three (3) months of the date of publication of this notice in the Gazette.

DATED:

**HABOFANOE LEHANA
MINISTER OF LOCAL GOVERNMENT AND
CHIEFTAINSHIP AFFAIRS**

NOTE

1. Act No. 8 of 2010