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IP Factsheet
LESOTHO

SECTION 1: COUNTRY OVERVIEW

1.1 GENERAL INFORMATION

Capital	Maseru
Population	2.3 million (World Bank 2023)
Currency of government (official) fees	Loti (LSL) (pl: maloti)
Language for filing IP applications:	English
GDP per capita (USD):	USD 878 (World Bank, 2022)
Human Development Index:	0.514 (Human Development Report 2021-2022)
Main exports:	Clothing, water, diamonds, wool, footwear, mohair, livestock, tobacco.
Main imports:	Food, fuel, machinery, vehicles, medicines, building materials, accessories for apparel

1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

Lesotho is a contracting state to the following international legal instruments.

- Berne Convention for the Protection of Literary and Artistic Works.
- Madrid Agreement and Protocol Concerning the International Registration of Marks.
- Marrakesh VIP Treaty.
- Paris Convention for the Protection of Industrial Property.
- Patent Cooperation Treaty (PCT).
- Rome Convention for the protection of performers, producers, phonograms and broadcasting organizations.
- TRIPS () Agreement.
- WIPO Convention.

Most of Lesotho's IP laws are TRIPS-compliant although, in practice, the level of implementation may be different from other countries. This may have an impact on the effectiveness of some IP enforcement issues.

Lesotho is not a member of the Nice Agreement (). However, its trade mark classification system is based on the Nice classification system.

1.3 REGIONAL AGREEMENTS

Lesotho is a member of the following regional agreements.

- **ARIPO –** Lesotho is a member of the Lusaka Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO). Under ARIPO, Lesotho is a member of the Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs.

- **AfCFTA** (the African Continental Free Trade Area)

  The Agreement contains a protocol on IP rights which aims for effective protection and promotion of IP rights in Africa and may therefore have legal implications for Lesotho when it comes into legal force.

- **SADC** (the Southern African Development Community)

  SADC's headquarters are in Gaborone, Botswana. SADC has **no** regional IP agreements, protocols or registration systems in place. However, it has the **SADC Industrialization Strategy and Roadmap (2015-2063)** which includes a focus on promoting the use and enforcement of IP rights to encourage research and development and innovation amongst SADC countries.

1.4 LEGAL FRAMEWORK OF IP PROTECTION AVAILABLE IN LESOTHO

The following IP protection is available in Lesotho:

1) **trade marks**: national, regional (ARIPO) and international (Madrid);

2) **patents**: national and regional (ARIPO);

3) **utility models**: national and regional (ARIPO);

4) **industrial designs**: national and regional (ARIPO)

5) **copyright and neighbouring rights**: national.

1.5 IP REGISTRATION ROUTES

IP protection in Lesotho can be secured at **three** levels: national, regional and international.

National

The five types of IP mentioned above can be protected directly in Lesotho through the Lesotho Intellectual Property Office which is under the Ministry of Law and Justice (LIPO).

Regional

Lesotho is a contracting party to ARIPO's Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs.

It is therefore possible to register trade marks, patents, utility models and industrial designs either nationally through LIPO or regionally, through ARIPO.

International

Lesotho is also a contracting party to the Madrid System and the Patent Cooperation Treaty (PCT). It is therefore possible to register international trade marks designating Lesotho through the Madrid System, among others. More information is available at: https://www.wipo.int/madrid/en and https://www.wipo.int/pct/en.

Choosing a suitable registration route: trade marks, patents, utility models and industrial designs

A **national** route is suitable when IP protection is required in Lesotho only.

A **regional** route through ARIPO is suitable when multi-country protection of the abovementioned IP rights is required.

An **international** route is advisable for trade mark protection only when protection is required in more countries than are covered by the ARIPO regional trade mark system.

Useful information

Representation

- Foreign applicants whose principal place of business is outside Lesotho must appoint a local agent (for local applicants this is optional). LIPO accepts signed powers of attorney without any need for notarisation. However, you should check with your IP service provider in Lesotho whether hard copies are necessary or

scanned copies sent by email are acceptable. A list of ARIPO representatives (by country) is available at: https://www.aripo.org/ip-agents/.

Trade marks

- The ARIPO trade mark system's multiclass and state designation system closely resembles the Madrid system and for this reason is often referred to as a 'mini Madrid'.

- Lesotho law has been amended to recognise both ARIPO and Madrid trade marks which, as a result, are given the same legal protection as national-route trade marks.

- Lesotho is not a signatory to the Nice Agreement but uses the Nice Classification. Classifications based on the latest edition of Nice at the time of filing of an application are accepted.

SECTION 2: OVERVIEW OF IP ENFORCEMENT

Lesotho is a signatory of the WTO's TRIPS Agreement, and its laws are substantially TRIPS-compliant in terms of providing a legal framework for the protection and enforcement of IP rights.

The Registrar of Copyright is responsible for copyright enforcement by monitoring the activities of collecting societies and the collecting and distributing of any royalties or other remuneration accruing from expressions of folklore. The Ministry of Tourism, Environment and Culture is also responsible for the enforcement of copyright, particularly the protection of artistic works. The Lesotho IP office works closely with the Lesotho Mounted Police Service which, in recent years, increased its anti-piracy campaigns and raids of counterfeit goods in different locations around the country. The Lesotho Mounted Police Service, by virtue of their arresting powers, are also granted enforcement powers. The national police also work side by side with Interpol in enforcing IP rights in Lesotho.

The Copyright Order No 13 of 1989 provides that people who are guilty of infringement may be fined up to LSL 12 000 or be imprisoned for a term not exceeding 5 years or both.

The Commissioner General of the Lesotho Revenue Authority also plays a crucial role in IP enforcement as they may detain any goods for the purpose of investigating or determining whether the goods are counterfeit, or if they are reasonably suspected to be counterfeit.

Where there is a reasonable suspicion that goods are counterfeit, the holder of an IP right in respect of protected goods must apply in writing to the Commissioner General to detain any goods suspected of infringing their IP right on importation and to seize the goods when it is verified that they are counterfeit. Lesotho Customs officers may also act *ex officio* at the borders and within the country in copyright infringement cases. They are entitled to impound copies of works or sound recordings suspected of being made or imported without the

copyright owner's authorisation, where the making or importation of copies is subject to such authorisation, as well as the impounding of their packaging, the equipment that could be used to make the copies, and the documents, accounts or business papers referring to these copies.

Despite the LIPO and State efforts to curb IP infringement, rights holders must play a significant role in policing the use of their IP in Lesotho. They must constantly check that the industrial and commercial markets in which they sell their goods or services take appropriate action against competitors, retailers, or street vendors' infringement of their IP rights. Lesotho law entitles rights holders to take civil action against infringers to recover their lost revenue and/or to have the infringing products destroyed.

Regarding copyright, the Copyright Order provides preventive measures to deter infringements and preserve relevant evidence related to an alleged infringement. In addition, the Act empowers the police to conduct searches of premises where it is suspected that infringing goods are concealed, and to seize any offending goods. Civil remedies include court injunctions, confiscation of offending goods and payment of damages to the rights holder for any economic damage suffered because of an infringement of their rights. Criminal sanctions include the imposition of substantial fines and the possibility of imprisonment.

SECTION 3: TYPES OF AVAILABLE IP PROTECTION

3.1 TRADE MARKS

National, regional, and international trade marks can be registered in Lesotho as explained below.

Multi-class applications are applicable for goods and/or services in any number of classes according to the 11th edition of the Nice classification.

Benefits of registering a trade mark

- A registered trade mark gives the owner exclusive rights to use it to market their products and services; it gives the owner protection against others using the same mark or a similar mark without authorisation.
- In the long run, a well-maintained trade mark can build the owner's brand and become an asset to their organisation. This can enable them to expand their business by licensing it to others, franchising or obtaining finance.

3.1.1 Who can register a trade mark?

A natural person, a company or any other entity can apply to register a trade mark.

However, a person who does not have their place of business or residence in Lesotho

needs a professional representative.

3.1.2 What qualifies for registration?

A trade mark that is capable of distinguishing the particular goods or services of one undertaking from those of other undertakings and is not in conflict with earlier registrations or pending applications and is not contrary to public order or morality.

If you register a combined trade mark (i.e. one that includes both word and figurative elements) in Lesotho, the exclusive right to use the trade mark is limited to the exact configuration or way in which the trade mark was filed and registered.

If you wish to use the word element of your trade mark separately from the logo (or vice versa), it is recommended that you register another trade mark including only the word or figurative elements you wish to use and to protect them separately.

3.1.3 What cannot be registered?

- A sign cannot be registered if it is:
- incapable of distinguishing the goods or services of one enterprise from those of other enterprises;
- it is contrary to public order or morality;
- likely to mislead the public or trade circles, in particular as regards the geographical origin of the goods or services concerned or their nature or characteristics;
- identical with, or is an imitation of, or contains as an element, an armorial bearing, flag and other emblem, a name or abbreviation or initial of the name of, or official sign or hallmark adopted by, a State, intergovernmental organisation created by an international convention, unless authorised by the competent authority of that State or organisation;
- identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Lesotho for identical or similar goods or services of another enterprise;
- identical with a mark belonging to a different proprietor and already on the register, or with an earlier filing or priority date, in respect of the same goods or services, or closely related goods or services, or if it so nearly resembles such a mark as to be likely to deceive or cause confusion; or
- identical with, or confusingly similar to, or constitutes a translation of, a mark which is registered and well known in Lesotho for goods or services which are not similar to those in respect of which the mark is registered, provided that use of the mark in relation to those goods or services would indicate a connection between those

goods or services and the owner of the registered mark and provided that the interests of the owner of the registered mark are likely to be damaged by such use.

3.1.4 Where can I file an application?

- Lesotho Intellectual Property Office (LIPO) which is housed under the Ministry of Law and Justice.
- ARIPO (for regional marks).
- Country designation through the International Bureau (WIPO).
- Applications can also be filed online using the following link: http://eservice.aripo.org/pmi/PMIMain.do

3.1.5 How much does it cost?

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Lesotho loti, LSL).

For trade marks filed online using the ARIPO eservice, the application fee is reduced by 20%. The following link contains details of the official fees: https://www.aripo.org/storage/resources-fee-schedules/1690894064_Banjul%20Protocol%20Fees%202023.pdf

For applications to filed via the International route, the WIPO fee calculator by clicking on https://madrid.wipo.int/feecalcapp/.

It is advisable to contact a local agent for trade marks to be filed through the national IP Office overseen by the Registrar General in Lesotho. Applications can be filed though the following link: https://www.aripo.org/ip-agents

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals.

The following link directs to the list of accredited agents: https://www.aripo.org/ip-agents

Likely overall registration costs for national applications

An applicant can expect the cost of registering a trade mark to be in the region of the amounts set out in the table below (in Lesotho loti, LSL), unless objections and other

special circumstances that may increase the costs apply.

Description of Process/Service	Government Fees (LSL)
First application – first class	1 200
For each additional class included in the application	1 200

3.1.6 How long does registration take?

The trade mark registration process takes 15-18 months from the filing date to complete, assuming that there are no unusual delays and no oppositions. This includes an opposition period of 3 months.

3.1.7 What is the duration of protection?

10 years from the filing date and renewable every 10 years.

3.2 PATENTS

Lesotho Patent Registrations

- Almost 95 % of Lesotho patent applications are filed through its designation under ARIPO.
- It is advisable to seek professional advice before opting to register a patent through the LIPO route.
- LIPO has limited technical capacity at present to handle patent applications. WIPO has reported few filings in recent years. See the relevant statistics at: https://www.wipo.int/edocs/statistics-country-profile/en/ls.pdf

National and regional (ARIPO) patents can be registered in Lesotho in the following ways:

- **National**

  At LIPO.

- **Regional**

  All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO patent application. ARIPO's designation system allows an applicant to choose one, some or all of the remaining member states in a patent application. It

is therefore also possible to file an ARIPO patent application in which Lesotho (or any other member state) is designated to achieve national patent protection but through a regional registration system.

Choosing between a national or regional patent registration for Lesotho

The decision about whether to register a patent in Lesotho through the national or ARIPO route is usually guided by the following considerations.

- **Whether substantive examination is required or not:** LIPO does not offer substantive examination. This is only available through ARIPO as part of its technical assistance to ARIPO member states in terms of the objectives of the Lusaka Agreement. You can read more on these objectives in the Lusaka Agreement.
- **Whether patent protection is required in Lesotho only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required.
- **Cost-effectiveness:** ARIPO's centralised regional patent registration system is usually considered to be more cost-effective than a national patent registration approach.
- **Duration of protection:** the initial duration of protection of a national patent registration is 15 years, whereas it is 20 years for an ARIPO-registered utility model. This difference may influence preference for the ARIPO registration route.

Choosing between registration routes

Most patent applications for Lesotho are registered through ARIPO because it allows applicants to designate more than one country. It is more cost-effective to file a single application in ARIPO to gain patent coverage in two or more ARIPO member states.

Choosing a patent filing route

Lesotho is a member of the PCT. Patent applications for both the LIPO and ARIPO routes for Lesotho can also be filed through the PCT. However, the PCT provides an international patent filing rather than an international patent registration route.

National (LIPO) Patents

3.2.1 Who can register a patent?

An inventor (or successor in title) can apply to register a patent.

3.2.2 What qualifies for registration?

A patent must meet the following requirements.

- **Novelty**: which must be absolute novelty in that the invention must be a new technical solution which is not known in the body of existing knowledge in its technical field. It must not be anticipated by prior art.
- **Inventive step**: this means that, regarding the prior art, the invention is not obvious to a person skilled in the art.
- **Industrial applicability**: which means that it can be used in any kind of industry, including agriculture.

3.2.3 What cannot be registered?

The following cannot be patented:

- inventions whose commercial exploitation would be contrary to public policy or morality;
- plant or animal varieties or purely biological processes for the production of plants or animals, other than microbiological processes and the products of such processes;
- methods for treatment of the human or an animal body by surgery or therapy, end diagnostic methods practised on the human or an animal body (as opposed to medical products);
- discoveries, scientific theories, and mathematical methods;
- aesthetic creations;
- schemes, rules, and methods for performing mental acts, playing games or doing business;
- presentations of information; and
- software.

3.2.4 Where can I file an application?

National

Applications, non-Convention, Convention and PCT national phase applications must be filed at LIPO.

Regional

Applications can be filed at LIPO or, after clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

3.2.5 How much does it cost?

National (LIPO) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below. For both, it's important to get at least three different quotes from local agents. For a list of local agents, click here.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency, the Lesotho loti (LSL).

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

Likely overall registration costs for a LIPO patent

An applicant can expect the cost of registering a patent to be in the region of the amounts set out in the table below (in Lesotho loti, LSL), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	LIPO Fees (LSL)
Application fees	250
Preparation of abstract by Registrar	100
Grant and publication fee	350
Total fees	**700**

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ARIPO-route patent registration fees

Fees must be paid through ARIPO and in USD if an applicant chooses to register a patent for Lesotho using the ARIPO route. ARIPO's fees are reviewed regularly. There is a 20% discount for applications filed online through the ARIPO eservice. The latest fees are available at: https://www.aripo.org/storage/resources-fee-schedules.

Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

3.2.6 How long does registration take?

National patent applications are not examined substantively and therefore take a shorter time to register than ARIPO applications. The usual time frame is 9-15 months on average, when LIPO is operating efficiently. However, its patent section is usually short-staffed, which makes the registration period unpredictable. It is therefore advisable to check applicable processing time frames before starting the registration process.

Regional-route Lesotho applications are substantively examined by ARIPO and take 3-4 years on average to complete registration, assuming that there are no objections.

3.2.7 What is the duration of protection?

The term of a patent is 15 years from the filing date.

The term of the patent may be extended for a further period of 5 years provided that proof is furnished that the invention is being properly used in Lesotho at the date of the request or that there are legitimate reasons for failing to use the invention.

Importation of a patented product does not satisfy the 'use' requirement of a patent.

3.2.8 When are renewal fees paid?

National patents

Renewal fees are due annually.

Late payment of renewal fees is allowed within a grace period of 6 months after the due date.

ARIPO-route Lesotho patents

Renewal fees are payable up to the 19th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: https://www.aripo.org/storage/resources-fee-schedules/

3.3 UTILITY MODELS

In some jurisdictions utility models are referred to as 'petty patents' because they are similar to patents but require less stringent conditions for registration and are registered for a shorter term than a conventional patent.

Lesotho Utility Model Registrations

National and regional (ARIPO) utility models can be registered in Lesotho in the following ways.

- **National**

  At LIPO.

- **Regional**

  For the Harare Protocol, through ARIPO.

  ARIPO has 22 member states: Botswana, Cabo Verde, Eswatini (formerly Swaziland), The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

  It is also possible to file an ARIPO utility model application in which Lesotho or any other country is designated to achieve national utility model protection but through a regional registration system. However, it is advisable to ensure that utility model protection is available in each state that is designated because it is doubtful that it would be possible to enforce rights in a designated state that actually does not provide utility model protection in its national laws.

Choosing between a national or regional utility model registration for Lesotho

The decision about whether to register a utility model in Lesotho through the national or ARIPO route is usually guided by the following considerations.

- **Cost:** it may be more cost-effective to proceed through the national route if protection is required in Lesotho only.

- **Whether utility model protection is required in Lesotho only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required.

- **Duration of protection:** the duration of protection of a national utility model registration is 7 years, whereas it is 10 years for an ARIPO-registered utility model. This difference may influence preference for the ARIPO registration route.

Most utility model applications for Lesotho are registered through ARIPO because it allows applicants to designate more than one country in a utility model application. It is more cost effective to file a single application in ARIPO to gain utility model coverage in two or more ARIPO member states.

National (LIPO) Utility Models

3.3.1 Who can register?

- An inventor or successor in title can apply to register a utility model.

- It is possible for two or more persons or companies to jointly own a utility model and apply for its registration.

Registration procedure

- The registration of utility models is largely similar to the registration of patents.

- It is possible to apply for the conversion of an application for a patent into an application for a utility model certificate, or vice versa.

- The Lesotho Patents Office carries out a formal and substantive examination of utility model applications to establish if the utility model applied for is new and industrially applicable.

- The application proceeds to registration if no objections are raised during examination.

3.3.2 What qualifies for registration?

A utility model qualifies for registration if it is **new** and **industrially applicable**.

3.3.3 What cannot be registered?

The following cannot be registered as utility models in Lesotho:

- inventions whose commercial exploitation would be contrary to public policy or morality;
- plant or animal varieties or essentially biological processes for the production of plants or animals other than micro-biological processes and the products of such processes;
- methods for treatment of the human or animal body by surgery or therapy as well as diagnostic methods practised on the human or animal body (as opposed to medical products);
- discoveries, scientific theories, and mathematical methods;
- aesthetic creations;
- schemes, rules, and methods for doing business, performing mental acts, playing games;
- presentations of information; and
- software.

3.3.4 Where can I file an application?

National applications for utility models must be filed at LIPO.

Regional applications can be filed at LIPO or, after clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings. If an applicant wishes to obtain a utility model instead of a patent in Lesotho on the basis of an international application, this must be indicated in the international application when filed.

3.3.5 How much does it cost?

National (LIPO) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Lesotho loti, LSL).

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

ARIPO-route utility model registration fees

Fees must be paid through ARIPO if an applicant chooses to register a utility model in Lesotho using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available at: https://www.aripo.org/resources/fee-schedules.

Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

3.3.6 How long does registration take?

National utility model applications are examined substantively. The average time frame is 12-15 months. It is advisable to check applicable processing time frames before starting the registration process.

Regional-route filed LIPO applications are substantively examined by ARIPO and take longer than national utility model applications to reach registration. These applications can take 24-36 months to complete registration, assuming that only minimal official actions are needed and there are no objections.

3.3.7 What is the duration of protection?

- In Lesotho, the duration of utility models is 7 years from the filing date. They are not renewable.
- ARIPO-registered utility models have a duration of 10 years from the filing date; they are also not renewable.

3.3.8 When are renewal fees paid?

National utility models

Renewal fees must be paid each year, starting 1 year after the filing date of the application or the grant of the utility model.

Late payment of the annual fees, with a corresponding surcharge, is possible within a grace period of 6 months after the due date.

Government (official) fees

The following government (official) fees are currently applicable:

Annuity Year	**Renewal Fees** (LSL)
2	60
3	80
4	100
5	120
6	140
7	160
Surcharge for the late payment of annual fees	120

ARIPO-route filed Lesotho utility models

Renewal fees are payable up to the 10th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available at: https://www.aripo.org/resources/fee-schedules.

ARIPO fees are payable **per designated state**.

The following ARIPO renewal fees are currently applicable:

Annuity Year	**ARIPO Fee (USD)**
1 (NB: Due the second year after	20

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the filing date)	
2	25
3	30
4	35
5	40
6	45
7	50
Each year thereafter	10
Late renewal fees consist of 2 parts: i. **Surcharge** for late payment of annual maintenance fee.	30
ii. **Penalty fee** for every month or fraction of a month for which the fees remain unpaid.	5

- The complete fee schedule can be found here.

3.4. INDUSTRIAL DESIGNS

Unlike South African law, in Lesotho designs are registered without being classified as either aesthetic or functional designs.

Lesotho Industrial Design Registrations

National and regional (ARIPO) industrial designs can be registered in Lesotho in the following ways:

- **National**

  At LIPO, see below.

- **Regional**

  For the Harare Protocol, through ARIPO.

  ARIPO has 22 member states: Botswana, Cabo Verde, Eswatini (formerly Swaziland), The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

  All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO industrial design application. ARIPO's designation system allows an applicant to choose one, some or all of the remaining member states in an industrial

design application.

It is therefore possible to file an ARIPO design application in which Lesotho or any other country is designated to achieve national design protection but through a regional registration system.

Choosing between a national or regional industrial design registration for Lesotho

The decision about whether to register a design in Lesotho through the national or ARIPO route is usually guided by the following considerations.

- **Whether design protection is required in Lesotho only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required.
- **Cost-effectiveness:** ARIPO's centralised regional design registration system is usually considered to be more cost-effective than a national design registration approach.
- **Time-effectiveness:** Lesotho, like some other ARIPO member states, does not receive a lot of design applications to justify staff training and deployment into industrial design sections of the IP office. As a result, in comparison to ARIPO, national offices tend to be considerably slower at processing design applications. Time is usually of the essence to proprietors because designs are often short-lived. As a result, time-conscious applicants usually tend to prefer to register their designs through the ARIPO route instead of the national route.

Examination and novelty of designs for Lesotho

Lesotho carries out a formal and substantive examination of design applications. The examination is based on a relative statement of novelty.

Similarly, ARIPO carries out a formal examination of designs; member states are given the option to carry out a substantive examination if their national laws require it.

National (LIPO) Industrial Designs

3.4.1 Who can register?

A creator of an industrial design (or successor in title) can apply to register a design in Lesotho.

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It is possible for two or more persons or companies to jointly own and apply for the registration of an industrial design.

3.4.2 What qualifies for registration?

An industrial design is registrable if it is **new**. For a creation to qualify for design registration it must clearly identify novel features of the design in terms of:

- shape;
- configuration;
- pattern and/or ornament.

It is not a requirement that a design should have an objectively noticeable aesthetic quality.

Multiple design applications are possible in Lesotho, provided that all the designs are embodied in a single set of articles and belong to the same class.

3.4.3 What cannot be registered?

The following cannot be registered:

- designs that are contrary to the law, public policy or morality;
- designs for articles that are primarily literary or artistic in character, such as paintings, sculptures, drawings, enamelling, engravings, embroidery, photographs, sculptures, architecture and works of artistic craftsmanship;
- designs consisting solely of a change in the colour of already known designs;
- designs whose features correspond to or are determined by functions to be performed by the products.

3.4.4 Where can I file an application?

National-route design applications must be filed at LIPO.

Regional-route design applications can be filed at LIPO or, after clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO for Lesotho designs can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

3.4.5 How much does it cost?

National (LIPO) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Lesotho loti, LSL).

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

Likely overall registration costs for a LIPO industrial design

An applicant can expect the cost of registering an industrial design to be in the region of the amounts set out in the table below (in Lesotho loti, LSL), unless objections and other special circumstances which increase costs apply.

Process/Service	LIPO Government Fees (LSL)
Industrial design application fees	60
Registration and publication fee	60
Total fees	**120**

ARIPO-route design registration fees

These fees are paid through ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available at:
https://www.aripo.org/storage/resources-fee-schedules/1667855746_Industrial-Designs-Fees.pdf.pdf

Note on professional fees

Professional fees vary and it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: https://www.aripo.org/ip-agents/.

3.4.6 How long does registration take?

National-route applications usually take 15-18 months to complete registration. The deadline to file missing documents is 2 months from the date of notification.

Regional-route applications usually take 8-12 months to complete registration. This includes a period of 6 months for states to examine and decide if a design will have legal effect in their territories after ARIPO has issued them with a notice of intention to register a design.

3.4.7 What is the duration of protection?

A LIPO industrial design has an initial duration of 5 years from the filing date. The registration may be renewed for two further consecutive periods of 5 years through the payment of the prescribed fee.

ARIPO-route design registrations are valid for 15 years from the filing date, except for designated states with a shorter term of protection.

3.4.8 When are renewal fees paid?

Renewal fees must be paid within 6 months from the due date.

In ARIPO, annual maintenance fees are payable; they are due on the eve of each anniversary of the date of filing of the application and should be paid in advance to the Office. Late payment of the renewal fees is possible within a grace period of 6 months after the due date.

ARIPO-registered design renewal fees

Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available at: https://www.aripo.org/resources/fee-schedules.

Professional service renewal fees

These are usually payable as a flat-rate fee per annuity payment, regardless of the number of designated states. It is advisable to compare the fees of different IP agents.

3.5. COPYRIGHT AND NEIGHBOURING RIGHTS

Lesotho has many famous traditional dance styles, including the *mokorotlo, mohobelo* and *mokhibo*. These dance styles are unique, rhythmic and expressive. The *mohobelo* is perhaps the most well-known of the male dances. It originated when Basotho men were

still guarding outposts in the Maluti mountains. They would spend their time singing and dancing energetically while dressed in full warrior regalia – a blanket, shield, spear or *knobkerrie* (club) – and they began to use these armaments to emphasise the strength of their movements. The dance is not only an entertaining display of masculinity but also an exercise in teamwork.

About Copyright and Neighbouring Rights in Lesotho

Lesotho has a dedicated Act for the protection of copyright and neighbouring rights, namely the Copyright Order No 13 of 1989.

3.5.1 Can I register?

Copyright is **not** a registrable right in Lesotho. It exists automatically when any original work is created in one of the categories that is protected by the Copyright Order No 13 of 1989.

Lesotho is a member of ARIPO, which adopted the Kampala Protocol on Voluntary Registration of Copyright and Related Rights (the Kampala Protocol) in August 2021 to create a voluntary copyright registration system for its Member States. The Protocol, which will enter into force as soon as five of its Member States deposit their instruments of ratification or accession, provides for the establishment of a regional copyright database and offers presumption as to authorship and ownership. Implementing Regulations were adopted in November 2022 and the e-copyright system is under development to facilitate the voluntary registration of copyright and related rights.

3.5.2 What qualifies for protection?

Any original literary, artistic or scientific work qualifies for protection, including:

(a) literary works;

(b) musical works;

(c) artistic works;

(d) audiovisual works;

(e) sound recordings;

(f) broadcasts;

(g) programme-carrying signals;

(h) published editions.

3.5.3 What cannot be protected?

- Rules or decisions of courts and administrative bodies, as well as to official translation thereof.
- News of the day published, broadcast or publicly communicated by any other means.
- Mere communications of facts and data.

3.5.4 What are the requirements for legal protection?

Original works are protected by the sole fact of their creation, irrespective of their form of expression, and the purpose for which they were created.

- Material fixation by the author of a work expressed otherwise in a reproducible manner is not a condition of the protection of the work.

3.5.5 What are examples of acts permitted in relation to copyright works?

Permitted acts that do not infringe copyright include:

- reproduction, translation, adaptation, arrangement or other transformations of works exclusively for the user's personal and private use;
- quotations, provided the source is acknowledged;
- teaching purposes, provided it is compatible with fair use;
- reporting of current events;
- distribution by cable of any work broadcast where the beneficiaries of the distribution by cable live in one and the same building, and the distribution by cable is done without gainful intent;
- reproduction of works of art and of architecture in an audiovisual work or video recording and communication to the public of works so reproduced if said works are permanently located in a place where they can be viewed by the public or are included in the audiovisual work or video recording only by way of background or as incidental to the essential matters represented;
- reproduction by photography, sound or video recording of electronic storage by public libraries, national archives and museums, non-commercial documentation centre;
- ephemeral recording by any broadcasting organisation for the purpose of its own broadcasts and by means of its own facilities, in one or several copies, of any work which it is authorised to broadcast.

3.5.6 What acts are not permitted in relation to copyright works?

With certain limitations established in the law, unpermitted/restricted acts include:

- reproducing the work;
- publishing the work;
- importing the work into Lesotho or exporting it from Lesotho, other than for personal and private use;
- causing the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast and is operated by the original broadcaster;
- making an adaptation of the work.

3.5.7 What is the duration of protection?

The duration of copyright protection is as follows:

- **literary works** – the lifetime of the author, (or last surviving author in the case of jointly authored works) plus 50 years;
- **works published anonymously or under pseudonym**: 50 years from the date on which the work was first lawfully published;
- **cinematographic or other audiovisual work** – 50 years from the making of the work or, if the work is made available to the public during that period of 50 years with the consent of the author, 50 years from the date of its communication to the public;
- **photographic work or a work of applied art** – 25 years from the making of the work;
- **performers** – 20 years from the end of the year in which the performance took place;
- **phonogram producers** – 20 years from the end of the year in which the phonogram was published for the first time or, failing that, from the date on which it was initially made;
- **broadcasters** – 20 years from the end of the year in which the broadcast took place.

3.5.8 Can I renew copyright after its term of protection expires?

Copyright cannot be renewed in Lesotho once its term has expired. The work enters the public domain at the end of the term of protection.

Links to legislation:

ARIPO: https://www.aripo.org/resources/ip-case-laws

Links to institutions:

- ✓ AfCFTA – African Continental Free Trade Agreement Secretariat: https://au-afcfta.org/
- ✓ ARIPO – African Regional Intellectual Property Organization: https://www.aripo.org/
- ✓ SADC – Southern African Development Community: https://www.sadc.int/
- ✓ Office of the Registrar General of Lesotho: http://www.moj.gov.ls/

European Commission

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