

# BOTSWANA

STATUTE LAW, 1967

VOLUME 51

## CONTENTS

	Page
Chronological Table of the Acts, Reprints of Laws, Statutory Instruments and Bye-Laws Enacted or Published During the Year 1967....	II
Alphabetical Table of the Short Titles of the Principal Unrepealed Chapters, Proclamations, Acts and Laws In Force, Except where Otherwise Stated, on the 31st December, 1967, Including Subsequent Amending and Subsidiary Legislation up to 31st December, 1967....	IX

## ABBREVIATIONS

[illegible]

## II

### CHRONOLOGICAL TABLE OF THE ACTS, REPRINTS OF LAWS, STATUTORY INSTRUMENTS AND BYE-LAWS ENACTED OR PUBLISHED DURING THE YEAR 1967

#### ACTS

Act No.	Short Title	Date Published	Page
1	The Appropriation (1967/68) Act, 1967	1.4.67	B 1
* 2	The Agricultural Charges Act, 1967	28.4.67	B 3
* 3.	The State Land (Amendment) Act, 1967	28.4.67	B 11
* 4	The Widows' and Orphans' Pensions (Amendment) Act, 1967	28.4.67	B 13
* 5	The Totalizator Control Act, 1967	28.4.67	B 15
* 6	The Public Order Act, 1967	28.4.67	B 19
* 7	The Trading (Amendment) Act, 1967	28.4.67	B 25
* 8	The Refugees (Recognition and Control) Act, 1967	28.4.67	B 27
* 9	The National Development Bank (Amendment) Act,	28.4.67	B 33
* 10	The Court of Appeal (Amendment) Act, 1967	28.4.67	B 35
* 11	The Land Survey (Amendment) Act, 1967	28.4.67	B 37
* 12	The Road Traffic (Amendment) Act, 1967	28.4.67	B 39
* 13	The Finance and Audit (Amendment) Act, 1967	28.4.67	B 41
14	The Special Loan Act, 1967	19.5.67	B 45
15	The Moeng College Council and Committee (Date of Dissolution) Act, 1967	19.5.67	B 47
16	The Arms and Ammunition (Amendment) Act, 1967	19.5.67	B 49
17	The House of Chiefs (Salaries and Allowances) Act, 1967	19.5.67	B 51
18	The Ministerial Offices (Maximum Number) Act, 1967	1.9.67	B 55
19	The Immigration (Consolidation) (Amendment) Act, 1967	15.9.67	B 57
20	The Income Tax (Amendment) Act, 1967	15.9.67	B 61
21	The Botswana Honours Act, 1967	15.9.67	B 65
22	The Supplementary Appropriation (1966/67) Act, 1967	22.9.67	B 69
23	The Final Appropriation (1965/66) Act, 1967	22.9.67	B 71
24	The Employment (Amendment) Act, 1967	22.9.67	B 73
25	The Tribal Territories (Amendment) Act, 1967	22.9.67	B 75
26	The Wills (Amendment) Act, 1967	22.9.67	B 77

\* Date of Commencement should read 28:4:67



### III

Act No.	Short Title	Date Published	Page
27	The Immovable Property (Removal of Restrictions) Act, 1967	22.9.67	B 79
28	The Museum and Art Gallery Act, 1967	29.9.67	B 85
29	The National Library Service Act, 1967	29.9.67	B 91
30	The Applied Laws (Revision) Act, 1967	29.9.67	B 97
31	The Mineral Rights in Tribal Territories Act, 1967	29.9.67	B 99
32	The Essential Services (Arbitration) Act, 1967	29.9.67	B 115
33	The Public Order (Amendment) Act, 1967	13.10.67	B 125
34	The Legal Practitioners Act, 1967	13.10.67	B 127
35	The High Court of Botswana Act, 1967	13.10.67	B 147
36	The Wild Birds Protection (Repeal) Act, 1967	13.10.67	B 161
37	The Refugees (Recognition and Control) (Amendment) Act, 1967	13.10.67	B 163
38	The Statistics Act, 1967	13.10.67	B 167
39	The Liquor (Amendment) Act, 1967	13.10.67	B 177
40	The Water Act, 1967	20.10.67	B 185
41	The Medical, Dental and Pharmacy (Amendment) Act, 1967	20.10.67	B 205
42	The Penal Code (Amendment) Act, 1967	20.10.67	B 213
43	The Retiring Benefits (Non-Designated Officers) Act, 1967	20.10.67	B 215
44	The National Assembly (Salaries and Allowances) (Amendment) Act, 1967	20.10.67	B 229
45	The Anthropological Research Act, 1967	20.10.67	B 231
46	The Income Tax (Rates) Act, 1967	20.10.67	B 235
47	The Fauna Conservation (Amendment) Act, 1967	20.10.67	B 239
48	The National Parks Act, 1967	20.10.67	B 253
49	The Marriage (Amendment) Act, 1967	27.10.67	B 265
50	The Mines and Minerals Act, 1967	3.11.67	B 269

IV

REPRINTS OF LAWS

Cap. No.	Short Title	Date of Reprint	Page
4	The High Court Proclamation	24.3.67	C 191
5	The Subordinate Courts Proclamation	3.3.67	C 121
19	The Attorney-General's Proclamation	3.3.67	C 175
24	The Stock Theft Proclamation	10.2.67	C 93
33	The Revision of Penalties Proclamation	17.3.67	C 189
35	The General Administration Proclamation	17.3.67	C 177
44	The Public Holidays Proclamation	17.3.67	C 185
57	The Habit-Forming Drugs Proclamation	13.1.67	C 27
66	The Reformatories Proclamation	14.4.67	C 225
75	The Circumcision and Initiation Rites Proclamation	14.4.67	C 221
95	The Cattle Export Tax Proclamation	17.3.67	C 181
109	The Control of Livestock Industry Proclamation	17.2.67	C 99
118	The Acquisition of Property Proclamation	24.3.67	C 197
146	Legal Practitioners Proclamation	20.1.67	C 39
152	The Trade Returns Proclamation	24.3.67	C 213
159	The Cinematograph Proclamation	3.3.67	C 163
178	The Hides and Skins Export Proclamation	3.3.67	C 117
<b>Proc. No.</b>			
86/1959	The Arms and Ammunition Proclamation	6.1.67	C 1
47/1960	The Purchase of Agricultural Produce Proclamation	3.3.67	C 167
69/1960	The Liquor Proclamation	3.2.67	C 51
<b>Law No.</b>			
1/1961	The Amendments Incorporation Law, 1961	3.3.67	C 171
28/1961	The Small Lotteries Law, 1961	21.4.67	C 229
17/1965	The Pensions (Consolidation) Law, 1965	3.11.67	C 251
<b>Legal Notice No.</b>			
41/1965	The Public Service Commission (Supplementary Provisions) Regulations, 1965 and 1967	20.10.67	C 235

V

**STATUTORY INSTRUMENTS**  
**(EXCLUDING BYE-LAWS)**

<b>No.</b>	<b>Citation</b>	<b>Date Published</b>	<b>Page</b>
1	The Local Council's Employees Provident Fund Regulations, 1967	6.1.67	D ..... 1
2	The Botswana (Procedure in Appeals to Judicial Committee of Privy Council) Order, 1966	13.1.67	D ..... 5
3	The Pensions (Amendment) Regulations, 1967	20.1.67	D ..... 13
4	The Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 7)	20.1.67	D ..... 14
5	The Trading (Prescribed Forms) Regulations, 1967	20.1.67	D ..... 14
6	The Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 8)	27.1.67	D ..... 21
7	Notice Exempting Members of Class of Persons from obtaining a residence permit in order to reside in Botswana	27.1.67	D ..... 21
8	The Education (Fees) Regulations, 1967	27.1.67	D ..... 22
9	The Citizenship of Botswana Regulations, 1967	10.2.67	D ..... 25
10	The Co-operative Societies Regulations, 1967	10.2.67	D ..... 26
11	The Vernacular Language (Prescription) Regulations, 1967	17.2.67	D ..... 27
12	The Rules of Procedure of the House of Chiefs (Amendment) 1967	17.2.67	D ..... 27
13	The Mines and Minerals (Tati District) Order, 1967	24.2.67	D ..... 29
14	The Education Law, 1966: Date of Operation	24.2.67	D ..... 29
15	The Protected Areas (Francistown) Order, 1967	3.3.67	D ..... 31
16	Amendment of Part II of the Schedule to the Commissioners of Oaths Proclamation	10.3.67	D ..... 33
17	The Explosives (Amendment) Regulations, 1967	17.3.67	D ..... 35
18	The Botswana (Compensation and Retiring Benefits) Order, 1966	24.3.67	D ..... 37
19	The Constitutional Amendment (Adaptation of Existing Laws) Order, 1967	31.3.67	D ..... 59
20	The Authentication of Documents Law, 1964: Date of Operation	31.3.67	D ..... 60
21	The Public Service (General Qualifications) Regulations, 1967	31.3.67	D ..... 60

# VI

## STATUTORY INSTRUMENTS

### (EXCLUDING BYE-LAWS)

No.	Citation	Date Published	Page
22	Amendment of Part II of the Schedule to the Commissioners of Oaths Proclamation	7.4.67	D 63
23	The Road Traffic Regulations, 1967	5.5.67	D 65
24	The Citizenship of Botswana (Amendment No. 2) Regulations, 1967	5.5.67	D 173
25	The Fauna Conservation (Hunting on State Land) Regulations, 1967	19.5.67	D 175
26	The Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 10)	19.5.67	D 177
27	The Change of Name (Fees) Regulations, 1967	9.6.67	D 179
28	The Administration of Estates Application Order, 1967	9.6.67	D 179
29	The Public -Seal Order, 1967	23.6.67	D 181
30	The Fauna Conservation (Records and Returns by Trophy Dealers) Regulations	23.6.67	D 182
31	The Immigration (Consolidation) Law, 1966: Section 6(1) Exemptions	30.6.67	D 185
32	The Immigration (Visa) Regulations, 1967	7.7.67	D 187
33	The Town Council (Amendment) Regulations, 1967	7.7.67	D 191
34	Lobatsi Township - Pound Fees	14.7.67	D 193
35	The Agricultural Charges (Forms) Regulations, 1967	28.7.67	D 195
36	The Fauna Conservation (Amendment) Regulations, 1967	28.7.67	D 201
37	The Fauna Conservation (Powers of Honorary Officers) Regulations, 1967	14.7.67	D 205
38	The Administration of Estates (Remuneration of Executors, Curators and Tutors) Regulations, 1967	28.7.67	D 207
39	The Fauna Conservation (Hunting on State Land) (Amendment) Regulations, 1967	11.8.67	D 211
40	Open Season for the Hunting of Specified Game Animals	11.8.67	D 212
42	Rules of Procedure of the House of Chiefs (Amendment No. 2) 1967	25.8.67	D 227
43	Declaration of a Public Holiday	1.9.67	D 229

## VII

### STATUTORY INSTRUMENTS

#### (EXCLUDING BYE-LAWS)

No.	Citation	Date Published	Page
44	The Education (Section 15(2)) Notice, 1967	8.9.67	D 231
45	The Education (Registration of Schools) Regulations, 1967	8.9.67	D 231
46	The Air Navigation (Airport Services Fees) Notice, 1967	15.9.67	D 239
48	The Subordinate Courts (Local Limits of Jurisdiction)	22.9.67	D 257
49	The Fauna Conservation (Amendment No. 2) Regulations	22.9.67	D 257
50	The Constitutional Amendment (Adaptation of Existing Laws) (No. 10) Order, 1967	29.9.67	D 261
51	The Constitutional Amendment (Adaptation of Existing Laws) (No. 11) Order, 1967	29.9.67	D 267
52	The Botswana Honours Regulations, 1967	29.9.67	D 268
53	The Constitutional Amendment (Adaptation of Existing Laws) (No. 12) Order, 1967	29.9.67	D 274
54	The Citizenship of Botswana (Amendment No. 3) Regulations, 1967	13.10.67	D 283
55	The Public Service Commission Rules, 1967	13.10.67	D 287
56	The Finance and Audit (Special Funds) Order, 1967	20.10.67	D 299
57	The Protected Areas Order, 1967	20.10.67	D 300
58	The Agricultural Charges (Fees) Regulations, 1967	24.10.67	D 301
59	Leased Teleprinter Service and Private Telegraph Line Charges, 1967	27.10.67	D 303
60	The Telephone, Radio, Postal and Franking (Amendment) Regulations, 1967	27.10.67	D 305
61	The Marriage (Forms) Regulations, 1967	27.10.67	D 307
62	The Grading and Marking of Carcasses (Amendment) Regulations, 1967	10.11.67	D 311
63	The Hire Purchase Proclamation, 1961: Exemption	10.11.67	D 312
64	The Fauna Conservation (Bamangwato Tribal Territory) Hunting Regulations, 1967	10.11.67	D 312
65	The Fauna Conservation (Batawana Tribal Territory) Hunting Regulations, 1967	10.11.67	D 316
66	The Public Service Commission (Delegation of Powers) Directions, 1967	17.11.67	D 321

## VIII

### STATUTORY INSTRUMENTS

#### (EXCLUDING BYE-LAWS)

No.	Citation	Date Published	Page
67	The Telephone, Radio, Postal and Franking (Amendment No. 2) Regulations, 1967	24.11.67	D 323
68	The Protected Areas (Francistown) Order, 1967	24.11.67	D 324
69	The Companies (Forms) Regulations	15.12.67	D 325
70	The Agricultural Charges (Fees)(Amendment) Regulations, 1967	15.12.67	D 329
71	The National Relief Fund Regulations, 1967	15.12.67	D 330
72	The Town Council (Amendment No. 2) Regulations, 1967	15.12.67	D 332
73	The Town Council (Amendment No. 3) Regulations, 1967	15.12.67	D 334
74	The Fauna Conservation (Names of Animals) Regulations, 1967	22.12.67	D 335
76	The Fauna Conservation (Trophy Dealers) Regulations, 1967	29.12.67	D 343
77	The Pensions (Consolidation) Law, 1965: Amendment of First Schedule	29.12.67	D 347
78	Liquor (Variation of Licensing Hours) Order, 1967	29.12.67	D 353
79	Revocation of Regulations for this Contract of Producers' Agents in Abattoirs	29.12.67	D 354
80	The Control of Livestock Regulations, 1967	29.12.67	D 354

#### BYE-LAWS

Statutory Instrument	No.	Citation	Date Published	Page
	41	Francistown General Bye-Laws, 1967	18.8.67	D 213
	47	Lobatsi General Bye-Laws, 1967	15.9.67	D 243
	75	Hawking (Model) Bye Laws, 1967	29.12.67	D 339

#### MISCELLANEOUS

The African Courts Proclamation, 1961: Court Warrants

E 105

**ALPHABETICAL TABLE OF THE SHORT TITLES OF THE PRINCIPAL UNREPEALED CHAPTERS, PROCLAMATIONS, ACTS AND LAWS IN FORCE, EXCEPT WHERE OTHERWISE STATED, ON THE 31ST DECEMBER, 1967 INCLUDING SUBSEQUENT AMENDING AND SUBSIDIARY LEGISLATION UP TO 31ST DECEMBER, 1967**

ACQUISITION OF PROPERTY (see reprint of 24th March, 1967) G.N. 20/1962 Board of Assessment Rules, 1962.	Cap. 118
ACTS OF PARLIAMENT (amended by L.N. 88/1966)	Law 15/1966
ADMINISTRATION OF ESTATES (amended by Proc. 3/1959; Law 13/1962; 24/1963; 31/1964; HMC Order 1/1963 and L.N. 84/1966) L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966) L.N. 58/1965 Administration of Estates (Remuneration and allowances payable to Sworn Appraisers) Regulations, 1965. L.N. 26/1966 External Letters of Administration S.I. S.I. 28/1967 Administration of Estates Application Order S.I. 38/1967 Administration of Estates (Remuneration of Executors, Curators and Tutors) Regulations	Cap. 83
ADOPTION OF CHILDREN (amended by Law 28/1964 and L.N. 84/1966) L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	Cap. 43
AFRICAN COURTS (amended by L.N. 84/1966 HMC Order 1/1963)	Proc. 19/1961
AFRICAN COURT RULES (page 134 Vol. III 1948 Laws of Botswana as amended by H.C.N. No. 47/1957) 1967 page E105 Court Warrants (Amended by G.N. 61/1967)	
AFRICAN DIVORCE (amended by Law 28/1964 and L.N. 84/1966)	Cap. 77
AFRICAN LOCATIONS (see Locations)	
AGRICULTURAL CHARGES S.I. 35/1967 Agricultural Charges (Forms) Regulations S.I. 58/1967 Agricultural Charges (Fees) Regulations (Amended by S.I. 70/1967)	Act 2/1967
AGE OF MAJORITY (amended by L.N. 84/1966)	Cap. 12
AMENDMENTS INCORPORATION (see reprint of 3rd March, 1967)	Law 1/1961
ANTENUPTIAL CONTRACTS (amended by L.N. 84/1966)	Cap. 145
ANTHROPOLOGICAL RESEARCH	Act 45/1967
APPEAL TRIBUNAL (SUPPLEMENTARY PROVISIONS)	Act 3/1966
ARBITRATION (amended by Law 30/1962 and L.N. 84/1966)	Proc. 75/1959
ARMS AND AMMUNITION (see reprint dated 6th January, 1967) (amended by Act 16/1967)	Proc. 86/1959

#### E.4

#### X

G.N. 16/1960 The Arms and Ammunition Regulations (amended by G.N. 68/1964, L.N. 54/1965, L.N. 84/1966)	
G.N. 17/1960 Appointment of ex-officio licensing officers	
G.N. 22/1962 Arms and Ammunition Regulations, 1962	
G.N. 67/1964 Arms and Ammunition (Additional) Regulations (amended by L.N. 84/1966)	
ATTORNEY-GENERAL (see reprint of 3rd March, 1967)	Cap. 19
AUCTION DUES (amended by Law 28/1964)	Cap. 96
AUTHENTICATION OF DOCUMENTS (amended by L.N. 28/1965 and L.N. 84/1966)	Law 33/1964
S. I. 20/1967 Date of Commencement	
AVIATION (see Civil Aviation)	
BAMANGWATO TRIBAL MEMBERSHIP	Cap. 78
BILLS OF EXCHANGE (AMENDED BY L.N. 84/1966)	Law 30/1964
BIRTHS AND DEATHS REGISTRATION (amended by Proc 5/1959; further amended by Law 6/1963, Law 27/1964 and L.N. 84/1966 not in force on 31st December, 1967)	Cap. 143
H.C.N. 30/1962 Births and Deaths (Forms and Fees) Amendment Regulations, 1962, amended by G. N. 172/1964 and L.N. 84/1966.	
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966).	
BONEMEAL, BLOODMEAL AND CARCASEMEAL (EXPORT DUTY) (amended by L.N. 84/1966)	Law 20/1961
BOREHOLES (amended by L.N. 84/1966)	Cap. 119
BOTSWANA EMBLEMS	Law 25/1966
BOTSWANA HONOURS	Act 21/1967
S.I. 52/1967 Botswana Honours Regulations	
BOTSWANA INDEPENDENCE ORDER	L.N. 83/1966
BOTSWANA MEAT COMMISSION (amended by Act 2/1966 and L.N. 84/1966)	Law 22/1965
L.N. 11/1966 First Appointed Day	
L.N. 64/1966 Second Appointed Day	
BOTSWANA TEACHING SERVICE LAW	Law 35/1964
L.N. 85/1966 Date of Operation	
L.N. 86/1966 Teaching Service Regulations (Republished 4th November, 1966)	
BOUNDARIES (amended by L.N. 84/1966)	Cap. 37
BRANDING OF CATTLE (amended by L.N. 84/1966)	Law 19/1961
G.N. 54/1963 Date of Commencement of Part II of the Branding of Cattle Law	
G.N. 55/1963 Zonal Branding Areas and Symbols	
G.N. 56/1963 Branding of Cattle (Branding Irons) Regulations (amended by G.N. 30/1964)	



BRITISH SOUTH AFRICA COMPANY LAND (amended by L. N. 84/1966)	Cap. 114
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
BUILDING CONTROL (amended by L.N. 84/1966)	Law 7/1962
G.N. 8/1964 Building Control Regulations (amended by L.N. 16/1965 and L.N. 84/1966)	
G.N. 31/1964 Commencement	
L.N. 17/1965 Building Control (Gaberones Grade II Dwelling Houses) Regulations (amended by L.N. 84/1966).	
L.N. 18/1965 Building Control (Gaberones Grade III Dwelling Houses) Regulations (amended by L.N. 84/1966)	
BUILDING SOCIETIES (amended by L.N. 84/1966)	Proc. 36/1961
BUSHMAN RELICS (amended by HMC Order 1/1963)	Cap. 180
CANTEEN LICENCES TRADING (amended by L.N. 84/1966)	Cap. 110
CAPE STATUES (REVISION)	Law 26/1963
CATTLE EXPORT TAX (see reprint of 17th March, 1967)	Cap. 95
CENSUS (amended by L.N. 84/1966 and HMC Order 1/1963)	Cap. 45
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
CHANGE OF NAME (amended by L.N. 84/1966)	Law 28/1963
S.I. 27/1967 Change of Names (Fees) Regulations	
CHIEFTAINSHIP (amended by L.N. 84/1966)	Law 29/1965
G.N. 127/1966 Salaries of Chiefs	
CINEMATOGRAPH (see reprint of 3rd March, 1967)	Cap. 159
CIRCUMCISION AND INITIATION RITES (see reprint of 14th April, 1967)	Cap. 75
CITIZENSHIP OF BOTSWANA (SUPPLEMENTARY PROVISIONS) (amended by L.N. 88/1966 and L.N. 102/1966)	Law 39/1966
L.N. 82/1966 Citizenship of Botswana Regulations, 1966 (amended by L.N. 102/1966, S.I. 9/1967, S.I. 24/1967 and S.I. 54 of 1967)	
S.I. 11/1967 Vernacular Language (Prescription) Regulations	
CIVIL AVIATION	Title XXVIII Vol. IV
Colonial Civil Aviation (Application of Act) Order, 1952 and 1965 (S.I. 1952 No. 868 and S.I. 1965 No. 980)	page 2329 and L.N. 12/1966
Colonial Air Navigation Orders 1961 to 1963 (S.I. 1961 No. 2316, S.I. 1962 No. 2597 and S.I. 1963 No. 1966)	
Carriage by Air (Non-International Carriage) (Colonies Protectorates and Trust Territories) Order, 1953 (S.I. 1953 No. 1206, S.I. 1955 No. 710 and S.I. 1961 No. 2318)	page 2495
Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953 (S.I. 1953 No. 1474)	page 2506

Carriage by Air (Parties to Convention) Order, 1966 (S.I. 1966 No. 441)	L.N. 65/1966
H.C.N. 85/1955 Air Navigation (Registration and Licensing) Regulations (Amended by L.N. 84/1966)	page 2527
H.C.N. 86/1955 Air Navigation (Investigation of Accidents) Regulations (amended by L.N. 84/1966)	page 2535
H.C.N. 87/1955 Air Transport (Licensing of Air Services) Regulations (amended by L.N. 84/1966)	page 2540
G.N. 10/1956 Government Aerodromes and Emergency Landing Grounds	page 2562
G.N. 51/1965 Control of Flying Regulations (amended by L.N. 56/1966, 84/1966 and 91/1966)	
S.I. 46/1967 Air Navigation (Airport Service Fees) Notice	
CIVIL PROCEDURE (ACTIONS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS)	Law 24/1966
COMMISSIONS OF INQUIRY (amended by L.N. 84/1966)	Law 33/1961
G.N. 2/1963 Commissions of Enquiry Regulations, 1963 (amended by L.N. 84/1966)	
G.N. 83/1967 Issue of Commission	
COMMISSIONERS OF OATHS (amended by L.N. 84/1966)	Cap. 50
H.C.N. 51/1962 New Schedule, amended by H.C.N. 83/1962, 46/1963, S.I. 16/1967 and 22/1967)	
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
COMPANIES (see reprint 24th May, 1963 (amended by Act 8/1966, G.N. 51/1964 and L.N. 84/1966)	Proc 71/1959
S.I. 69/1967 Companies (Forms) Regulations	
COMPULSION OF WITNESSES (amended by Act 12/1966, L.N. 84/1966 and H.M.C. Order 1/1963)	Cap. 9
H.C.N. 99/1962 Declared Territories	
CONCESSIONS (amended by L.N. 84/1966)	Law 26/1964
L.N. 30/1966 Concessions Regulations (amended by L.N. 84/1966)	
CONSTITUTION OF BOTSWANA	L.N. 83/1966
L.N. 84/1964 Constitutional Amendment (Existing Laws) Order	
L.N. 88/1966 Constitutional Amendment (Existing Laws) Order (No. 2)	
L.N. 94/1966 Constitutional Amendment (Existing Laws) Order (No. 3)	
L.N. 99/1966 Constitutional Amendment (Existing Laws) Order (No. 4)	
L.N. 102/1966 Constitutional Amendment (Existing Laws) Order (No. 5)	

L.N. 105/1966	Constitutional Amendment (Existing Laws) Order (No. 6)	
S.I. 4/1967	Constitutional Amendment (Existing Laws) Order (No. 7)	
S.I. 6/1967	Constitutional Amendment (Existing Laws) Order (No. 9)	
S.I. 19/1967	Constitutional Amendment (Existing Laws) Order (No. 9)	
S.I. 26/1967	Constitutional Amendment (Existing Laws) Order (No. 10)	
S.I. 50/1967	Constitutional Amendment (Existing Laws) Order (No. 11)	
S.I. 51/1967	Constitutional Amendment (Existing Laws) Order (No. 12)	
S.I. 53/1967	Constitutional Amendment (Existing Laws) Order (No. 12)	
L.N. 41/1965	Public Service Commission (Supplementary Provisions) Regulations (See reprint dated 20th October, 1967)	
S.I. 20/1967	Public Service Commission (General Qualifica- tions) Regulations	
S.I. 55/1967	Public Service Commission Rules	
S.I. 66/1967	Public Service Commission (Delegation of Powers) Regulations	
G.N. 126/1966	Ministerial Portfolios	
G.N. 50/1967	Change of Ministerial Title	
G.N. 88/1967	Ministerial Portfolios	
G.N. 89/1967	Ministerial Appointments and Functions	
G.N. 90/1967	Functions of Vice President	
G.N. 91/1967	Establishment of Ministerial Office	
CONSULAR CONVENTIONS (amended by L.N. 84/1966)		Cap. 41
CONTROL OF LIVESTOCK INDUSTRY (see reprint dated 17th February, 1967)		Cap. 109
S.I. 80/1967	Control of Livestock Regulations	
CONTROL OF MAIZE MILLING (amended by L.N. 84/1966)		Proc 27/1961
G.N. 23/1963	Delegation of Powers	
CONVEYANCE OF DEAD BODIES (amended by L.N. 84/1966)		Cap. 56
CO-OPERATIVE SOCIETIES (amended by L.N. 84/1966)		Law 41/1962
G.N. 93/1964	The Co-operative Societies Regulations (amen- ded by S.I. 10/1967)	

COURT OF APPEAL (amended by Proc. 33/1960, L.N. 84/1966 Act 10/1967 and S.I. 10/1967)	Cap. 3
H.C.N. 57/1960 Court of Appeal Rules amendment	
CRIMINAL PROCEDURE AND EVIDENCE (see reprint dated 23rd October, 1964 amended by L.N. 84/1966)	Cap. 18
G.N. 34/1959 Officers entitled to accept admissions of guilt.	
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
L.N. 103/1966 Tariff of Allowances (Witnesses in Criminal Cases) Regulations.	
CRUELTY TO ANIMALS (amended by L.N. 84/1966)	Cap. 141
CURRENCY (amended by Law 30/1962)	Proc. 73/1960
G.N. 8/1961 Currency Regulations.	
G.N. 11/1961 Conversion of Decimal Coinage — (Determination of a second ("Popular") Conversion Table and application of the table to the stamp duties and Fees Proclamation (Chapter 91))	
G.N. 17/1961 Currency (Cheques) Regulations, 1961.	
CURRENCY (COMMEMORATIVE COINAGE)	Law 27/1966
L.N. 81/1966	
CUSTODY OF MENTALLY DISORDERED PERSONS (amended by L.N. 84/1966 and HMC Order 1/1963)	Cap. 32
CUSTOMS (amended by Proc. 22/1957; 7/1958; 78/1959; Law 22/1961 and L.N. 84/1966 and HMC Order 1/1963)	Proc. 68/1956
H.C.N. 127/1914 Customs Agreement (printed at page 188 of 1930 Edition of Customs Proclamations).	
H.C.N. 49/1957 Maximum Rates of Duty.	
H.C.N. 50/1957 Maximum Rates of Duty (amended by G.N. 18/1959, 56/1958, 29/1959, 38/1959, 88/1959).	
H.C.N. 53/1967 Suspended Duties (amended by G.N. 19/1958, 57/1958, 39/1959, 89/1959, 137/1961).	
H.C.N. 56/1957 Special Suspended Duties (amended by 20/1958, 58/1958, 30/1959, 40/1959, 90/1959).	
H.C.N. 59/1957 Ordinary Dumping Duties (amended by G.N. 21/1958, 60/1958, 31/1959, 44/1959, 92/1959, 140/1961).	
H.C.N. 60/1957 Imposition of a Bounty Dumping Duty.	
H.C.N. 61/1957 Temporary Special Duties.	
H.C.N. 62/1957 Imposition of a Temporary Special Duty.	
H.C.N. 83/1957 Temporary Suspension and Reduction of Duties (amended by G.N. 59/1958, 42/1959).	

- H.C.N. 15/1958 Withdrawal of Rebates of Duty.
- H.C.N. 17/1958 Rebates and Refunds of Duty. (amended by G.N. 64/1958, 95/1958, 34/1959, 96/1959, 144/1961).
- H.C.N. 18/1958 Maximum Rates of Duty.
- H.C.N. 19/1958 Suspended Duties.
- H.C.N. 20/1958 Special Suspended Duties.
- H.C.N. 22/1958 Repeal of Temporary Duties.
- H.C.N. 54/1958 Admission of Certain Articles at Reduced Rates of Duty. (amended by G.N. 35/1959, 47/1959, 97/1959, 145/1961)
- H.C.N. 56/1958 Maximum Rates of Duty.
- H.C.N. 57/1958 Suspended Duties.
- H.C.N. 58/1958 Special Suspended Duties.
- H.C.N. 61/1958 Imposition of a Bounty Dumping Duty.
- H.C.N. 45/1959 Temporary Special Duties.
- H.C.N. 46/1959 Withdrawal of Rebates of Duty.
- H.C.N. 91/1959 Temporary Suspended Duties.
- H.C.N. 92/1959 Ordinary Dumping Duties.
- H.C.N. 93/1959 Ordinary Dumping Duties. (amended by 141/1961).
- H.C.N. 94/1959 Freight Dumping Duties.
- H.C.N. 95/1959 Temporary Special Duties.
- H.C.N. 96/1959 Rebates and Refunds of Duty.
- H.C.N. 97/1959 Admission of Certain Articles at Reduced Rate of Duty.
- H.C.N. 4/1960 Port of Entry.
- H.C.N. 137/1961 Suspended Duties.
- H.C.N. 138/1961 Special Suspended Duties
- H.C.N. 139/1961 Temporary Reduction of Duty
- H.C.N. 140/1961 Ordinary Dumping Duties.
- H.C.N. 141/1961 Ordinary Dumping Duties.
- H.C.N. 142/1961 Temporary Special Duties.
- H.C.N. 143/1961 Withdrawal of Rebates of Duty.
- H.C.N. 144/1961 Rebates and Refunds of Duty.
- H.C.N. 145/1961 Admission of Certain Articles at Reduced Rates of Duty.
- H.C.N. 146/1961 Definitions in Terms of the General Note to the Customs Tariff.
- H.C.N. 147/1961 Ordinary Dumping Duty.
- H.C.N. 10/1962 Special Duties.
- H.C.N. 11/1962 Definition of Manufacture of a Particular Country.

H.C.N. 63/1956	Customs Agreement between Federation of Rhodesia and Nyasaland and the High Commissioner. (as amended by. H.C.N. 28/1957; 49/1961).	
G.N. 16/1962	Customs – Port of Entry.	
G.N. 67/1962	Customs – Ports of Entry.	
G.N. 29/1963	Customs – Ports of Entry.	
G.N. 27/1964	Customs Agreement between the Federation of Rhodesia and Nyasaland and Basutoland, the Bechuanaland Protectorate and Swaziland.	
CUSTOMS DUTIES ON SOUTH AFRICAN SPIRITS, BEERS AND WINES (amended by L.N. 84/1966)		Law 10/1965
L.N. 87/1966	New Schedule.	
DAIRIES AND DAIRY PRODUCE (amended by L.N. 84/1966 and HMC Order 1/1963)		Cap. 129
G.N. 62/1953	Dairies and Dairy Produce Regulations (amended by G.N. 3/1954, 4/1958, 58/1956, 23/1959, 78/1961 and L.N. 84/1966)	
DEATH DUTIES (amended by Law 32/1965 and L.N. 84/1966)		Cap. 84
DEEDS REGISTRY (amended by Law 29/1961, 27/1963 and L.N. 84/1966)		Proc. 36/1960
G.N. 21/1960	Deeds Registry Regulations (amended by G.N. 34/1962, L.N. 5/1965 and L.N. 84/1966).	
DESERTED WIVES AND CHILDREN PROTECTION (amended by L.N. 84/1966)		Law 29/1962
DEVELOPMENT LOAN		Law 7/1965
DEVELOPMENT LOAN (No. 1)		Law 4/1966
DEVELOPMENT LOAN (No. 2)		Law 5/1966
DEVELOPMENT LOAN (No. 3)		Law 30/1966
DIAMOND TRADE (amended by L.N. 84/1966 and S.I. 51/1967)		Cap. 124
DIPLOMATIC IMMUNITIES AND PRIVILEGES (amended by L.N. 84/1966)		Cap. 42
EDUCATION (amended by L.N. 84/1966)		Law 40/1966
S.I. 8/1967	Education (Fees) Regulations	
S.I. 14/1967	Date of Operation	
S.I. 44/1967	Education (Section 15(2)) Notice	
S.I. 45/1967	Education (Registration of Schools) Regulations	
ELECTRICITY SUPPLY (amended by L.N. 84/1966)		Law 25/1961
ELECTORAL LAWS (Note certain electoral regulations not referred to here have not formally been repealed but have been superseded by the provisions of the Constitution)		
G.N. 102/1964	Legislative Assembly (Registration of Voters) Regulations (as amended by G.N. 114/1964, and Law 1/1966)	

G.N. 167/1964 Legislative Assembly (Conduct of Elections) Regulations (as amended by G.N. 10/1965, 11/1965, 12/1965 14/1965, 17/1965, L.N. 2/1965 and Law 1/1966)	
EMPLOYMENT (amended by Law 24/1964, L.N. 84/1966 and Act 24/1967)	Law 15/1963
G.N. 150/1964 Employment Regulations (amended by L.N. 67/1965)	
HMC Order 5/1964 Exclusion of Certain Wage Earners from Part V of the Law	
HMC Order 6/1964 Medical Examination Examination Exemption	
HMC Order 7/1964 Application to Public Officers	
HMC Order 8/1964 Exclusion of Certain Occupations from certain provisions of Part VII of the Law	
EMERGENCY POWERS	Law 34/1966
ESSENTIAL SERVICES (ARBITRATION)	Act 32/1967
EVIDENCE IN CIVIL PROCEEDINGS (amended by L.N. 84/1966)	Cap. 13
EXCHANGE CONTROL (amended by Law 34/1964 and L.N. 84/1966)	Law 21/1964
L.N. 63/1965 Exchange Control Regulations (amended by L.N. 84/1966)	
EXCISE (amended by Proc. 43/1956; 26/1958 and L.N. 84/1966)	Proc. 30/1956
H.C.N. 26/1956 Duty on Motor Cars supplied under Rebate of Duty	
H.C.N. 27/1956 Rebate of Excise Duty on Yeast	
H.C.N. 29/1956 Rebate of Excise Duty on Motor Fuel	
H.C.N. 30/1956 Rebate of Excise Duty on Motor Fuel, Diesel Oil and Furnace Oil	
H.C.N. 36/1959 Rebate of Duty on Motor Cars	
H.C.N. 37/1959 Rebate of Duty on Pipe Tobacco	
EXPLOSIVES (amended by L.N. 84/1966)	Law 31/1961
G.N. 44/1963 Explosives Regulations, (amended by G.N. 50/1963, 164/64, L.N. 34/1965, 84/1966, 93/1966 and S.I. 17/1967)	
EXPORTATION AND IMPORTATION RESTRICTION	Cap. 162
H.C.N. 59/1959 Export Control Regulations (amended by H.C.N. 64/1959 and L.N. 57/1965)	
G.N. 18/1959 Import Control	
G.N. 54/1964 Restriction of Importation of Grain Sorghum or Grain Sorghum Products	
L.N. 74/1965 Export Control (Petroleum) Regulations (amended by L.N. 84/1966)	

FAUNA CONSERVATION (amended by Laws 21/1961, 16/1962, 38/1962, 4/1964, 39/1964, 4/1965, 42/1966 and by G.N. 27/1962, 57/1964, 86/1964, L.N. 84/1966 and 98/1966 and Act 47/1967) (not in operation on 31.12.67) Proc. 22/1961

- G.N. 52/1961 Fauna Conservation Regulations (amended by L.N. 20/1965, S.I. 36/1967 and S.I. 49/1967)
- G.N. 38/1963 Central Kalahari Game Reserve (Control of Entry) Regulations
- G.N. 49/1963 Chobe Game Reserve Regulations (amended by G.N. 85/1964)
- G.N. 86/1964 Alteration of Limits of Chobe Game Reserve
- L.N. 14/1965 Declaration of Moremi Wildlife Reserve
- G.N. 137/1964 Moremi Wildlife Reserve Regulations (amended by L.N. 33/1965)
- L.N. 70/1966 Transfer of Powers (read with L.N. 94/1966)
- S.I. 25/1967 Fauna Conservation (Hunting on State Land) Regulations (Amended by S.I. 39/1967)
- S.I. 37/1967 Fauna (Powers of Honorary Officers) Regulations
- S.I. 40/1967 Open Season for the Hunting of Specified Game Animals
- S.I. 64/1967 Fauna Conservation (Bamangwato Tribal Territory) Hunting Regulations
- S.I. 65/1967 Fauna Conservation (Batawana Tribal Territory) Hunting Regulations
- S.I. 76/1967 Fauna Conservation (Trophy Dealers) Regulations (not in force on 31.12.67)
- S.I. 74/1967 Fauna Conservation (Names of Animals) Regulations
- G.N. 17/1967 Declaration of Private Game Reserve
- G.N. 96/1967 Appointment of Authorised Officers for purposes of Part V of the Fauna Conservation

G.N. 102/1967 Declaration of Private Game Reserve

FENCING (amended by Law 14/1964 and L.N. 84/1966)

Law 6/1961

G.N. 42/1962 Fencing Regulations

G.N. 62/1962 Application

G.N. 15/1963 Application

FINANCE AND AUDIT (amended by Law 28/1965, L.N. 84/1966 and Act 13/1967)

Law 15/1965

L.N. 73/1965 National Relief Fund Order



S.I. 71/1967 National Relief Fund Regulations	
S.I. 56/1967 Finance and Audit (Special Funds) Order	
FOREIGN DOCUMENTS EVIDENCE (amended by L.N. 84/1966)	Cap. 10
FORESTS (amended by L.N. 84/1966)	Cap. 138
GAMES OF CHANCE	Law 3/1963
GHANZI STOCK ROUTE (amended by L.N. 84/1966)	Proc. 23/1961
GENERAL ADMINISTRATION (see reprint of 17th March, 1967)	Cap. 35
L.N. 111/1966 Administrative Districts	
GENERAL LAW (CAPE STATUTES) REVISION (amended by L.N. 84/1966)	Cap. 36
GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION	Law 28/1964
GENERAL LOAN AND STOCK	Cap. 101
GENEVA GENERAL AGREEMENT ON TARIFFS AND TRADE	Cap. 177
H.C.N. 26/1959 Provisional Application of Agreement	
H.C.N. 127/1959 Withdrawal and Modification of concessions in customs tariff rates.	
H.C.N. 128/1959 Rates of Customs Duties payable (as amended by H.C.N. 41/1959)	
GOVERNMENT SECURITIES	Law 35/1966
HABIT-FORMING DRUG (see reprint dated 13th January, 1967)	Cap. 57
G.N. 25/1959 Methadone and Normethadone	
HERBAGE PRESERVATION (amended by Law 28/1964 and L.N. 84/1966)	Cap. 135
HIDES AND SKINS EXPORT (see reprint of 24th February, 1967)	Cap. 178
G.N. 26/1964 Variation of Export Duty	
HIGH COURT OF BOTSWANA	Act 35/1967
L.N. 109/1966 High Court (Amendment) Rules	
G.N. 139/1967 Date of Commencement	
HIRE PURCHASE (amended by L.N. 84/1966)	Proc. 25/1961
G.N. 66/1963 Minimum Deposit and Maximum Period of Repay- ment for certain Road Vehicles	
S.I. 63/1967 Exemption	
HOUSE OF CHIEFS (POWERS AND PRIVILEGES) (amended by L.N. 84/1966)	Law 31/1965
L.N. 27/1965 House of Chiefs, Rules of Procedure (amended S.I. 12/1967 and S.I. 42/1967)	
L.N. 110/1966 House of Chiefs (Election of Specially Elected Members) Rules	
HOUSE OF CHIEFS (SALARIES AND ALLOWANCES)	Act 17/1967
IMMIGRATION (CONSOLIDATION) (amended by L.N. 88/1966 and Act 19/1967)	Law 19/1966

L.N. 19/1965	Immigration Regulations	
L.N. 31/1965	Exemptions	
L.N. 56/1965	Immigration (Identification of Immigrants) Regulations	
L.N. 34/1966	Immigration (Additional) Regulations	
L.N. 36/1966	Exemptions	
L.N. 97/1966	Exemptions	
S. I. 7/1967	Exemptions (Residence Permit)	
S. I. 31/1967	Section 6 (1) Exemptions	
S. I. 32/1967	Immigration (Visa) Regulations	
IMMOVABLE PROPERTY (REMOVAL OF RESTRICTIONS)		Act 27/1967
IMPORTATION OF BEES (amended by L.N. 84/1966)		Cap. 136
INCOME TAX (CONSOLIDATION) (see reprint 13th August, 1963) (amended by Law 22/1963, 19/64, 12/1965, L.N. 84/1966 and Act 20/1967) H.C.N. 70/1959 Double Taxation Agreement, H.C.N. 70/1959 Double Taxation Agreement, South Africa and Bechuanaland H.C.N. 57/1962 Double Taxation Agreement, Sweden and Bechuanaland		
INCOME TAX (RATES)		Act 46/1967
INHERITANCE (See Law of Inheritance)		
INQUESTS (amended by Laws 39/1962, 40/1964 and L.N. 84/1966 and HMC Order 1/1963)		Cap. 34
INSOLVENCY (amended by Proc. 4/1959, 29/1961, Law 27/1962, 23/1964 and L.N. 84/1966 and HMC Order 1/1963) L.N. 49/1965 Meaning of Qualified Accountant L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)		Cap. 82
INTERPRETATION AND GENERAL PROVISIONS		Law 13/1966
JUDGES (QUALIFICATIONS)		Act 5/1966
JUSTICES OF THE PEACE (amended by L.N. 84/1966 and HMC Order 1/1963)		Cap. 49
LAND MEASURE (amended by L.N. 84/1966)		Law 25/1963
LAND REGISTRATION AND TRANSFER (amended by L.N. 84/ 1966) L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)		Cap. 111
LAND SURVEY (see reprint dated 25th November, 1966)(amended by Act 11 of 1967)) G.N. 84/1963 Land Survey Regulations, 1963 (amended by L.N. 35/1965) G.N. 36/1964 Land Survey (Training in Practical Survey Work) Regulations, 1964 (amended by L.N. 84/1966)		Proc. 80/1959

LAW OF INHERITANCE	Cap. 86
LEGAL PRACTITIONERS	Act 34/1967
G.N. 94/1962 Forms	
LIQUOR	Pro. 69/1960
(see reprint dated 3rd February, 1967 as amended by Act 39/1967)	
G.N. 50/1960 The Liquor Proclamation (Prescribed Forms) Regulations, 1960	
G.N. 1/1961 Hotel Liquor Licence Renewal fees	
G.N. 46/1965 Direction to Licensing Authority	
S.I. 78/1967 Liquor (Variation of Licensing Hours) Order	
LIVESTOCK AND MEAT INDUSTRIES (amended by L.N. 84/1966)	Law 32/1962
L.N. 57/1966 Grading and Marking of Carcases Regulations (amended by L.N. 84/1966 and S.I. 62/1967)	
LOBATSI ABATTOIR (CONTRIBUTIONS TO TRUST FUND)	Proc. 57/1960
LOCAL COUNCILS ELECTIONS (PETITIONS AND PREVENTION OF CORRUPT PRACTICES)	Law 9/1966
LOCAL GOVERNMENT (DISTRICT COUNCILS) (amended by Law 2/1966, 8/1966 and L.N. 5/1966 and 84/1966)	Law 35/1965
L.N. 26/1966 Local Councils (Election Rolls) Regulations	
L.N. 32/1966 Local Councils (Conduct of Elections) Regulations	
L.N. 38/1966 Establishment of North East District Council	
L.N. 39/1966 Establishment of the Kgalagadi District Council	
L.N. 40/1966 Establishment of the Kgatleng District Council	
L.N. 41/1966 Establishment of the Central District Council	
L.N. 42/1966 Establishment of the North West District Council	
L.N. 43/1966 Establishment of the South East District Council (amended by L.N. 74/1966)	
L.N. 44/1966 Establishment of the Ngwaketse District Council	
L.N. 45/1966 Establishment of the Kweneng District Council	
L.N. 46/1966 Establishment of the Ghanzi District Council	
L.N. 52/1966 Local Government Service Commission Regulations	
L.N. 95/1966 Local Government (Conditions of Service) Regulations	
L.N. 100/1966 Matimela (Model) Bye-laws, 1966	
S.I. 75/1967 Hawking (Model) Bye-Laws	
G.N. 107/1967 Adoption of Matimela (Model) Bye-Laws	
G.N. 113/1967 Adoption of Matimela (Model) Bye-Laws	
G.N. 117/1967 Adoption of Matimela (Model) Bye-Laws	
LOCAL GOVERNMENT TAX (amended by L.N. 84/1966)	Law 20/1965
L.N. 71/1965 Local Government (Tax) Forms Regulations	
L.N. 64/1966 Designation of Authorities	

G.N. 8/1966	Exemption from Payment of Tax	
G.N. 24/1966	Exemption from Payment of Tax	
G.N. 39/1966	Exemption from Payment of Tax	
G.N. 122/1965	Specified Employers (amended by G.N. 15/1966)	
G.N. 14/1966	Specified Employers	
G.N. 58/1966	Specified Employers	
G.N. 85/1966	Specified Employers	
G.N. 105/1966	Specified Employers	
G.N. 115/1966	Specified Employers	
G.N. 142/1966	Specified Employers	
G.N. 5/1967	Specified Employers	
G.N. 53/1967	Specified Employers	
LOCAL COUNCILS EMPLOYEES PROVIDENT FUND (by L.N. 84/1966)		Law 38/1966
S.I. 1/1967	Local Councils Provident Fund Regulations	
LOCATIONS (AFRICAN LOCATIONS) (amended by Law 28/1964 and L.N. 84/1966 and HMC Order 1/1963)		Cap. 69
LOCUSTS (amended by L.N. 84/1966)		Cap. 134
MAINTENANCE ORDERS (amended by Law 21/1962 and L.N. 84/1966 and HMC Order 1/19/63)		Cap. 8
H.C.N. 103/1962	Extension to the Republic of South Africa	
A.N. 99/1964	Extension to the Isle of Man	
MARRIAGE (amended by Law 42/1964, L.N. 84/1966 and Act 49/1967)		Cap. 144
L.N. 55/1965	Transfer of Powers (read with L.N. 94/1966)	
S.I. 61/1967	Marriage (Form) Regulations	
MEAT COMMISSION (See Botswana Meat Commission)		
MEDICAL, DENTAL AND PHARMACY (amended by Act 10/1966, L.N. 84/1966, HMC Order 1/1963 and Act 41/1967)		Cap. 147
MERCANTILE LAW AMENDMENT ACT (amended by L.N. 84/1966)		Cap. 15
METHODIST CHURCH		Cap. 181
MINERAL RIGHTS IN TRIBAL TERRITORIES		Act 31/1967
MINES AND MINERALS		Act 50/1967
G.N. 140/1967	Date of Commencement	
MINING HEALTH (amended by L.N. 84/1966)		Cap. 126
MINISTERIAL OFFICES (MAXIMUM NUMBER)		Act 18/1967
MOENG COLLEGE COUNCIL AND COMMITTEE (DATE OF DISSOLUTION)		Act 15/1967
MOENG COLLEGE CONSTITUTION (to be repealed on 3rd appointed day under Education Law, 1966 amended by S.I. 19/1967)		Cap. 80

MOLOPO STOCK ROUTE (amended by L.N. 84/1966)	Law 17/1966
L.N. 76/1966 Molopo Stock Route Regulations	
G.N. 112/1966 Establishment of Molopo Stock Route	
MOTOR VEHICLE AND ROAD TRAFFIC (amended by Proc. 2/1960, Law 21/1961, L.N. 79/1966 and 84/1966) (Road Traffic Law, 1963 published but not in force on 31st December, 1967, repeals Cap. 168)	Cap. 168
G.N. 84/1967 Motor Vehicle and Road Traffic Regulations (amended by L.N. 44/1965 and 60/1966)	
H.C.N. 118/1961 Speed Limits	
H.C.N. 26/1962 Chobe District (Speed Limit) Regulations,	
G.N. 143/1964 Restriction on the use of a certain type of of Motor Vehicle on the Nata-Maun Road	
MOTOR VEHICLE INSURANCE (amended by Proc. 1/1960 and L.N. 84/1966)	Cap. 170
G.N. 135/1967 Registered Companies and Tariffs	
NATIONAL ASSEMBLY (SALARIES AND ALLOWANCES) (amended by Act 44/1967)	Law 24/1965
NATIONAL ASSEMBLY (POWERS AND PRIVILEGES) (amended by L.N. 84/1966 and HMC Order 1/1963)	Proc. 24/1961
NATIONAL DEVELOPMENT BANK (amended by L.N. 28/1965, Law 41/1966, L.N. 84/1966 and Act 9/1967)	Law 13/1963
NATIONAL LIBRARY SERVICE	Act 29/1967
NATIONAL MUSEUM AND ART GALLERY	Act 28/1967
NATIONAL PARKS (Not in force on 31st December, 1967)	Act 48/1967
NEIGHBOURING TERRITORIES TRADE (amended by Proc. 75/1960 and L.N. 84/1966)	Cap. 179
NON-PENSIONABLE TEACHERS' PROVIDENT FUND (amended by L.N. 84/1966)	Law 27/1961
G.N. 27/1963 Non-Pensionable Teachers' Provident Fund Regulations (amended by L.N. 84/1966)	
G.N. 46/1963 Qualifications of Teachers	
NOXIOUS WEEDS (amended by L.N. 84/1966)	Cap. 133
NURSES AND MIDWIVES (amended by HMC Order 1/1963)	Law 43/1964
G.N. 75/1967 Date of Commencement	
NURSING SISTERS (RETIRING ALLOWANCES) (amended by L.N. 84/1966)	Cap. 61
OFFICIAL SECRETS (amended by L.N. 84/1966 and HMC Order 1/1963)	Cap. 51
OVERSEAS SERVICE (amended by Law 15/1964)	Law 30/1963

PATENTS AND DESIGNS PROTECTION (amended by L.N. 84/1966)	Cap. 155
PENAL CODE (amended by Law 14/1965, Act 4/1966, L.N. 84/1966 and Act 42/1967)	Law 2/1964
L.N. 23/1965 Prohibited Publications Order	
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
L.N. 15/1966 Prohibited Publications Order	
PENSIONS (CONSOLIDATION) (see reprint of 3rd November, 1967) (Amended by S.I. 77/1967)	Law 17/1965
Pensions Regulations, 1965 (see reprint of 3rd November, 1967)	
PLANT DISEASES AND PESTS (amended by Law 30/1962, G.N. 7/1959 and L.N. 84/1966)	Proc.19/1959
POLICE (amended by Proc. 6/1959, 19/1960, Law 30/1965 and L.N. 84/1966)	Cap. 63
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
POLICE RIFLE ASSOCIATION (amended by Law 28/1964 and L.N. 84/1966)	Cap. 64
L.N. 55/1965 Transfer of Powers (read with L.N. 94/1966)	
POST OFFICE (amended by Law 32/1961 and L.N. 84/1966)	Proc.43/1961
H.C.N. 17/1963 Change of Title of Controller	
H.C.N. 23/1963 Telephone, Radio, Postal and Franking Regulations (amended by G.N. 37/1964, L.N. 69/1965, 70/1965, 84/1966, 96/1966, 107/1966 S.I. 60/1967 and S.I. 67/1967)	
G.N. 113/1963 Revised Postage Rates, Telegraph Charges and Tariffs (amended by G.N. 25/1964, 123/1964, 151/1964 L.N. 68/1965, 72/1965, 3/1966, 16/1966, 80/1966 and 108/1966)	
L.N. 59/1966 Transfer of Powers (read with L.N. 94/1966)	
S.I. 59/1967 Leased Teleprinter Service and Private Telegraph Line Charges	
POST OFFICE SAVINGS BANK AND SAVINGS CERTIFICATES (amended by Law 22/1962, 16/1966 and L.N. 84/1966)	Law 32/1961
G.N. 19/1963 Post Office Savings Bank Regulations (amended by L.N. 84/1966)	
POSTAL CONVENTION (amended by L.N. 84/1966)	Cap. 172
POSTAL CENSORSHIP (amended by L.N. 84/1966) and HMC Order 1/1963)	Cap. 173
POUNDS (amended by Laws 4/1963, 28/1964 and L.N. 84/1966)	Cap. 140

G.N. 27/1961 Pound Fees	
L.N. 25/1965 Pounds (Applicability to Francistown Township) Order	
G.N. 60/1965 Francistown Township, Pound Fees	
L.N. 24/1965 Francistown Township (Establishment of Pound) By-laws	
L.N. 33/1966 Gaberones District Pound Fees	
S. I. 34/1967 Lobatsi Township Pound Fees	
POWERS OF ATTORNEY (amended by L.N. 84/1966)	Cap. 16
PRESCRIPTION (amended by Law 30/1962 and L.N. 84/1966)	Proc.76/1959
PRICE CONTROL	Law 26/1962
G.N. 186/1964 Dairy Produce Prices (amended by L.N. 15/ 1965, 39/1965, 40/1965, and 68/1966)	
PRISONS (amended by Law 26/1965, 22/1966 and L.N. 84/1966 and S.I. 51/1967)	Law 41/1964
L.N. 37/1965 Prison Regulations (amended by L.N. 69/1966 and 84/1966)	
G.N. 16/1966 Declaration of Prisons	
G.N. 25/1966 Prison Standing Orders (amended by G.N. 51/ 1967)	
PROHIBITED PUBLICATIONS (see Penal Code)	
PROMISSORY OATHS	Law 36/1966
PROTECTED PLACES AND AREAS (amended by L.N. 84/1966)	Law 18/1965
L.N. 76/1965 Protected Places (Francistown) Order	
S.I. 15/1967 Protected Areas (Francistown) Order	
S.I. 57/1967 Protected Areas order	
S.I. 68/1967 Protected Areas and Places (Francistown) Autho- rised Officers	
PUBLIC HEALTH (amended by L.N. 84/1966 and HMC Order 1/ 1963)	Cap. 40 1948 revised Edition
L.N. 67/1966 The Sanitary (Amendment) Regulations	
G.N. 174/1964 Amendment of Public Health Regulations (printed in Vol. III, 1948 Edition at page 182)	
PUBLIC HOLIDAYS	Cap. 44
(see reprint of 17th March, 1967)	
S.I. 43/1967 Declaration of a Public Holiday	
G.N. 115/1967 Commonwealth Day, 1968	
PUBLIC ORDER (amended by Act 33/1967)	Act 6/1967
PUBLIC ORDER AND SAFETY	Cap. 51
PUBLIC ROADS (amended by Law 11/1961 and L.N. 84/1966)	Cap. 169
G.N. 69/1966 Establishment of Public Road	
G.N. 3/1967 Establishment of Public Road	

PUBLIC SAFETY (amended by Law 28/1964 and L.N. 84/1966 Order 1/1963)	Cap. 53
PUBLIC SEAL	Law 32/1966
S.I. 29/1967 Public Seal Order	
L.N. 90/1966 Appointment of Custodian	
PUBLIC SERVICE (see Constitution)	
PURCHASE OF AGRICULTURAL PRODUCE (see reprint of 3rd March, 1967) G.N. 44/1962 Non-application of Proc. 47/1960	Proc.47/1960
RACE RELATIONS (amended by L.N. 84/1966) Not in force on December 31st, 1967	Law 10/1964
RAILWAY (amended by Law 35/1962, 29/1964, Order of the Acting Commissioner 4/1964, HMC Order 1/1963 and L.N. 84/1966 (see also Law 19/1963)	Cap. 163
RAILWAY AUTHORITY (amended by L.N. 28/1965 and 84/1966) (Act 10 of 1861 amended by Law 7/1961, Act 19/1861 amended by Law 43/1962, Act 6 of 1905 amended by Law 34/1962) H.C.N. 120/1959 Dangerous Goods – Rgodesia Railways Bye-laws (amended by H.C.N. 91/1960, G.N. 117/1963, L.N. 2/1966 and 84/1966) H.C.N. 90/1962 Amendment of Railway Regulations (further amendment G.N. 118/1963)	Cap. 164
RAILWAY ACCIDENT INQUIRY (amended by HMC Order 1/1963)	Cap. 166
RAILWAY LAND (amended by L.N. 84/1966)	Cap. 113
RAILWAY STOCK COMPENSATION (amended by L.N. 84/1966)	Cap. 165
REFORMATORIES (see reprint of 14th April, 1967)	
REFUGEES (RECOGNITION AND CONTROL) (Published but not in force on 31st December, 1967) (amended by Act 37/1967)	Act 8/1967
REGISTRATION OF LIVESTOCK (amended by L.N. 84/1966)	Cap. 132
REGULATION OF ADVERTISEMENTS	Cap. 27
RETIRING BENEFITS (NON-DESIGNATED OFFICERS) G.N. 132/1967 Notice of Retirement by Entitled Officers	Act 43/1967
REVISED EDITION OF THE LAWS (amended by Proc. 61/1959, 82/1959, Law 3/1961 and 30/1962) H.C.N. 69/1960 Enforcement	Cap. 1
REVISION OF PENALTIES (see reprint dated 17th March, 1967)	Cap. 33
RIGHTS OF PASSAGE TO WATER (amended by L.N. 84/1966 (to be repealed by Act 40/1967)	Cap. 117



RIOTOUS ASSEMBLIES (See Public Order)	
ROAD TRAFFIC (Published but not in force on 31st December, 1967 (amended by L.N. 84/1966 and Act 12/1967) S.I. 23/1967 Road Traffic Regulations	Law 14/1963
SHOP HOURS (amended by L.N. 84/1966) G.N. 101/1966 Shop Hours Francistown	Cap. 158
SLAVERY	Cap. 76
SLEEPING SICKNESS (amended by Proc. 74/1959, Law 28/1964 and L.N. 84/1966) G.N. 6/1960 Tsetse Fly Control G.N. 4/1962 Tsetse Fly Control Regulations G.N. 21/1962 Notice of Typographical Error in G.N. 4/1962	Cap. 58
SMALL LOTTERIES (see reprint dated 21st April, 1967) L.N. 55/1965 Transfer of Powers (read with L.N. 91/1966)	Law 28/1961
SPECIAL LOAN	Law 33/1966 Act 14/1967
SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (amended by Law 25/1965 and 18/1966)	Law 16/1965
STAMP DUTIES AND FEES (amended by Proc. 6/1961 and L.N. 84/1966)  G.N. 73/1965 Manner of denoting Payment of Duty G.N. 102/1965 Demonstration of Stamps H.C.N. 27/1961 Stamp Duty on Cheques (amended by L.N. 84/1966)	Cap. 91
STATE LAND (amended by Act 3/1967) G.N. 1/1967 Delegation of Powers	Law 29/1966
STATISTICS	Act 38/1967
<b>STATUTORY INSTRUMENTS (UNITED KINGDOM) APPLICABLE IN RELATION TO BOTSWANA</b>	
BOTSWANA INDEPENDENCE ORDER 1966	L.N.83/1966
BECHUANALAND PROTECTORATE (BENEFITS UNDER RETIREMENT SCHEME) ORDER 1966	L.N.106/1966
CARRIAGE BY AIR (PARTIES TO CONVENTION) ORDER 1966	L.N.65/1966
COLONIAL CIVIL AVIATION (APPLICATION OF ACT) (AMENDMENT) ORDER 1965	L.N.12/1966
COLONIAL PROBATES ACT APPLICATION ORDER	L.N.50/1965
COPYRIGHT (BECHUANALAND) ORDER	L.N.13/1966
COPYRIGHT (INTERNATIONAL CONVENTION) (AMENDMENT NO. 3) ORDER	L.N.27/1966
EVIDENCE ORDER	L.N.53/1965

FOREIGN MARRIAGE ORDER	L.N.13/1965
FUGITIVE OFFENDERS (NORTHERN RHODESIA GROUPING) ORDER	L.N. 6/1965
HOUSE OF CHIEFS (ELECTION OF ELECTED MEMBERS) REGULATIONS	L.N. 3/1965
UNITED KINGDOM FORCES (JURISDICTION OF COLONIAL COURTS) ORDER	L.N.12/1966
BOTSWANA (PROCEDURE IN APPEALS TO JUDICIAL COMM- ITTEE OF PRIVY COUNCIL) ORDER	S.I. 2/1967
BOTSWANA (PENDING APPEALS) ORDER	S. I . 2/1967
BOTSWANA (COMPENSATION AND RETIRING BENEFITS) ORDER G.N. 108/1967 Notice of Retirement by Designated Officers	S. I .18/1967
STOCK DISEASES (amended by L.N. 84/1966) Stock Free Zones – Vol. III page 1594 of 1959 Edition (amen- ded by H.C.N. 98/1960, 42/1961 and L.N. 84/1966)	Cap. 131
G.N. 23/1960 Notification of vegetable or animal products likely to convey or spread Foot and Mouth Disease	
G.N. 24/1960 Movement of Stock Resitricition	
STOCK THEFT (see reprint dated 10th February, 1967)	Cap. 24
SUBORDINATE COURTS (see reprint dated 3rd March, 1967) (amended by S.I. 26/1967 and S.I. 51/1967) S.I. 48/1967 Subordinate Courts (Local Limits of Jurisdiction) Order	Cap. 5
SUCCESSION	Cap. 85
SURRENDER OF FUGITIVE CRIMINALS (amended by Proc. 66/1960 and L.N. 84/1966)	Cap. 21
TACIT HYPOTHECS (amended by L.N. 84/1966)	Cap. 14
TATI CONCESSIONS LAND (amended by L.N. 84/1966)	Cap. 112
TEACHING SERVICE (see Botswana Teaching Service)	
TELEGRAPHIC TRANSMISSION OR CIVIL PROCESS (amended by L.N. 84/1966)	Cap. 175
TOTALIZATOR CONTROL	Act 5/1967
TOWN AND COUNTRY PLANNING Reprint dated 10th October, 1964 (amended by L.N. 84/1966) G.N. 47/1962 Town and Country Planning (Fee Forms and Allowances) Regulations G.N. 72/1961 Subdivision of Land within the Territory G.N. 32/1963 Town and Country Planning (Objections Proce- dure) Regulations	Proc.33/1961

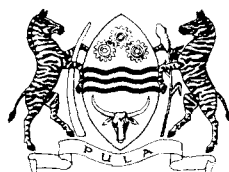
G.N. 51/1965	Establishment of Town and Country Planning Board (amended by G.N. 114/1965)	
G.N. 3/1965	101/1965 Subdivisions to be in accordance with Proc. 33/1961	
TOWNSHIP	(Reprint dated 12th July, 1962 (amended by HMC Order 1/1963 and L.N. 84/1966)	Cap. 120
H.C.N. 27/1960	Declaration of Townships, amended by H.C.N. 82/1962 and L.N. 31/1966)	
G.N.123/1963	Tatitown Township Local Beer (Amendment) Bye-laws	
G.N.124/1963	Francistown Township Local Beer (Amendment) Bye-laws	
G.N. 92/1963	Gaberones Township Local Beer Regulations (amended by G.N. 125/1963 and L.N.84/1966)	
G.N. 93/1963	Ghanzi Township Local Beer Regulations (amended by G.N. 126/1963 and L.N. 84/1966)	
G.N. 94/1963	Lobatsi Township Local Beer Regulations (amended by G.N. 127/1963 and L.N. 84/1966)	
L.N. 24/1965	Francistown Township (Establishment of Pound) Bye-laws	
L.N. 26/1966	Local Councils (Election Rolls) Regulations	
L.N. 32/1966	Local Councils (Conduct of Election) Regulations	
L.N. 37/1966	Town Council Regulations (Amended by L.N. 61/1966, L.N. 84/1966, S.I. 33/1967, S.I. 72/1967 and 73/1967)	
L.N. 52/1966	Local Government Service Commission Regulations	
L.N. 48/1966	Establishment of Lobatsi Town Council	
L.N. 49/1966	Establishment of Gaberones Town Council	
L.N. 50/1966	Establishment of Francistown Town Council	
L.N. 58/1966	Gaberones General Bye-laws	
L.N. 92/1966	General (Model) Bye-laws	
L.N.101/1966	Francistown Township Traffic Bye-laws	
G.N. 78/1966	Gaberones Rating Bye-laws	
S.I. 41/1967	Francistown General Bye-laws	
S.I. 47/1967	Lobatsi General Bye-laws	
TRADING	(amended by Act 7/1967)	Act 6/1966
G.N. 1/1967	Notice of Correction	
S.I. 5/1967	The Trading (Prescribed Forms) Regulations	
TRADE MARKS	(amended by L.N. 84/1966)	Cap. 153
TRADE RETURNS	(see reprint of 24th March, 1967)	Cap. 152
L.N. 9/1966	Trade Returns (Prescribed Forms) Regulations	

TRADE UNIONS AND TRADE DISPUTES (amended by L.N. 84/1966)	Cap. 151
G.N. 166/1964 Trade Unions Registration (Appeal) Rules	
TRANSFER DUTY (amended by Law 20/1966 and L.N. 84/1966)	Cap. 88
TRANSFER DUTY (SURCHARGE) (amended by L.N. 84/1966)	Cap. 89
G.N. 11/1961 Application of Conversion Table to Cap. 89	
TRIBAL TERRITORIES (amended by Proc. 21/1960, Law 10/1963 and Act 25/1967)	Cap. 68
UNITED KINGDOM JUDGMENTS (amended by L.N. 84/1966)	Cap. 7
UNITED KINGDOM TRADE MARKS (amended by L.N. 84/1966)	Cap. 154
UNLAWFUL ASSEMBLIES (see Public Order)	
UNWROUGHT PREVIOUS METALS (amended by L.N. 84/1966)	Cap. 123
VAGRANCY	Acts 23/1879 & 27/1889 of the Cape of Good Hope
VETERINARY SURGEONS (Published but not in force on 31st December, 1967) (amended by HMC Order 1/1963)	Proc. 21/1961
WAGES BOARDS (reprint dated 29th May, 1962) (amended by L.N. 84/1966 HMC Order 1/1963)	Cap. 161
H.C.N. 87/1962 Wages Board Rules 1962 (amended by L.N. 84/1966 and HMC Order 10/1964)	
WATER (Not in force 31st December, 1967)	Act 40/1967
WATERWORKS (amended by L.N. 84/1966)	Law 26/1961
WEARING OF UNIFORMS (amended By L.N. 84/1966)	Cap. 62
WEIGHTS AND MEASURES (amended by L.N. 84/1966)	Cap. 100
WIDOWS' AND ORPHANS' PENSIONS (amended by Law 23/1966, L.N. 84/1966 and Act 4/1967)	Law 34/1965
WILD BIRDS PROTECTION (amended by L.N. 84 of 1966) (To be repealed by Act 36/1967)	Cap. 142
WILLS (amended by L.N. 84/1966 and Act 26/1967)	Cap. 87
WITCHCRAFT	Cap. 25
WORKS AND MACHINERY (amended by L.N. 84/1966)	Cap. 125
H.C.N. 46/1962 Application of the Works and Machinery Regulations	
G.N. 50/1964 Works and Machinery (Amendment) Regulations	
WORKMEN'S COMPENSATION (amended by L.N. 84/1966 and HMC Order 1/1963)	Cap. 149
G.N. 96/1964 Application.	

B.1

**THE APPROPRIATION (1967/68) ACT, 1967**

No. 1



of 1967

**AN ACT TO AUTHORISE THE PAYMENT OUT OF THE CONSOLIDATED FUND OF A SUM OF MONEY FOR THE SERVICES OF THE YEAR ENDING ON THE 31ST MARCH, 1968**

Date of Assent: 31st March, 1967.

Date of Commencement: 1st April, 1967.

ENACTED by the Parliament of Botswana

**Short Title.**

1. This Act may be cited as the Appropriation (1967/68) Act, 1967.

**Expenditure of R14,113,632 Authorised.**

2. The Minister of Finance may issue by warrant for the payment out of the Consolidated Fund for the services of Botswana during the year ending on the 31st March, 1968, of the sum of fourteen million, one hundred and thirteen thousand, six hundred and thirty two rand.

**Appropriation Thereof.**

3. The sum authorised by this Act shall be appropriated and applied to the services set out in the Schedule in the amounts set opposite thereto.

## B.2

## SCHEDULE

Head No.	Services	Amount
PART I		R
1	Office of the President	1,633,117
2	Ministry of Finance	1,312,912
3	Ministry of Home Affairs	370,699
4	Ministry of Agriculture	1,926,134
5	Ministry of Labour and Social Services	1,603,245
6	Ministry of Commerce, Industry & Water Affairs	748,881
7	Ministry of Local Government and Lands	1,016,069
8	Ministry of Works and Communications	1,775,366
9	Appropriations	2,800,000
10	Administration of Justice	52,142
11	Attorney-General	48,804
12	Audit	38,888
13	Public Service Commission	18,524
14	Overseas Aid Scheme	460,612
PART II		
D2/1	Borehole Maintenance Units	21,650
D2/2	Water Branch Training	9,220
D2/6	Rural Surface Water Supplies	8,776
D2/8	Game Protection (Wild Life Conservation)	4,000
D2/9	Chobe Game Reserve	3,952
D2/10	Mineral Exploration	49,149
D3/1	Disease Control	42,228
D3/8	Central Research Station	9,444
D3/9	Crop Protection	23,942
D5/1	Training (Surveyor-General)	9,279
D5/3	Town and General Mapping	4,114
D6/1	Francistown Secondary School	8,184
D6/2	Junior Secondary Schools	15,000
D6/3	Francistown Teacher Training College	20,000
D6/4	U.B.L.S.	50,000
D6/6	Gaberones Hospital (Phase II)	29,301
TOTAL		<u>R14,113,632</u>

Passed by the National Assembly this day, the 31st March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly

B.3

## THE AGRICULTURAL CHARGES ACT, 1967

No. 2



of 1967

### AN ACT FOR PROVIDING ADDITIONAL SECURITY FOR MONEYS OWING BY FARMERS TO THE NATIONAL DEVELOPMENT BANK

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

#### PART I

#### PRELIMINARY

##### Short Title.

1. This Act may be cited as the Agricultural Charges Act, 1967.

##### Interpretation.

2. In this Act, unless the context otherwise requires —

“agreement”, except in section 3, means an agreement to which this Act applies in accordance with the provisions of that section;

“agricultural produce” means crops or horticultural produce whether future, growing, or severed from the land, and after severance whether subjected to any treatment or manufacture or not; livestock and the produce and progeny thereof; and other agricultural or horticultural produce whether subjected to any treatment or process of manufacture or not;

#### **B.4**

“agriculture” shall have the meaning assigned to it in section 2 (1) of the National Development Bank Law, 1963;

“bank” means the National Development Bank as established by the National Development Bank Law, 1963.

“buyer” means a person to whom or through whom agricultural produce is required to be sold in accordance with the provisions of section 7;

“certificate of indebtedness” means the certificate referred to in section 4;

“farmer” means a person who is engaged in agriculture;

“livestock” shall include —

(a) any bovine animal, horse, sheep, goat, or pig;

(b) any fowl, goose, duck, or turkey kept for commercial purposes;

“loan” shall include the contract known in Tswana as “*go fisa*”, and any similar contract;

“moveable assets” shall —

(a) include all agricultural produce;

(b) exclude property not liable to attachment in satisfaction of a judgment debt in the High Court.

## **PART II**

### **AGREEMENTS**

#### **Application of the Act to an Agreement.**

3. Any written agreement between a farmer and a bank under which moneys are payable, or may become payable, to the bank may provide that this Act shall apply to the agreement; and if it does so provide then this Act shall apply.

#### **Certificate of Indebtedness.**

4. (1) Whenever an agreement is concluded, the farmer and an agent or servant of the bank authorized thereto shall certify as correct a certificate of indebtedness which shall contain the following —

(a) the full names, residential and postal addresses of the farmer;

(b) the place of signature of the certificate;

(c) a statement that the bank has through its servant or agent, explained to the farmer the effect of making an agreement subject to the provisions of the Act and that the farmer understands the explanation;



## **B.5**

- (d) the amount of moneys owing, or which may become owing, to the bank, the interest chargeable thereon, and the time when such moneys and any interest thereon will become due for payment;
- (e) such details as are required in accordance with the provisions of subsection (2);
- (f) such details as are required in accordance with the provisions of section 7 (2);
- (g) any note in terms of section 14 (3);
- (h) such other matters as may be prescribed.

(2) Where the bank wishes to acquire rights in respect of the movable assets of a farmer in accordance with the provisions of section 11, this shall be stated on the certificate of indebtedness.

(3) In the event of there being any conflict between the terms of an agreement and the certificate of indebtedness the terms of the certificate shall prevail.

(4) Nothing in this Act shall prevent an agreement from containing any lawful terms or conditions whatsoever, not being terms or conditions in conflict with the certificate of indebtedness.

### **Registration of Certificates of Indebtedness.**

5. (1) A copy of the certificate of indebtedness shall be lodged by the bank with the Registrar of Deeds within thirty days of the signature and shall be registered by him in the manner of a notarial bond.

(2) Where a certificate of indebtedness is not lodged for registration in the manner described and within the time mentioned in subsection (1) the provisions of this Act shall cease to apply to the agreement.

(3) The registration of a certificate of indebtedness shall not cure any defect therein or confer on it any effect or validity which it would not otherwise have had, except in so far as is provided by this Act.

### **Cancellation of Certificates of Indebtedness.**

6. (1) Where a farmer pays in full the moneys owing to a bank under an agreement or where an agreement ceases to be of any force and effect by reason of cancellation, novation, or otherwise, the bank shall, within thirty days of the payment or lapse notify the Registrar of Deeds and every buyer to that effect in the prescribed form.

(2) On receipt of a notification in terms of subsection (1), the Registrar of Deeds shall cancel the certificate of indebtedness which, thereupon, shall cease to be of any force or effect.

## **B.6**

### **PART III**

#### **SALE OF PRODUCE TO A BUYER**

##### **Sale of Agricultural Produce to or through a Buyer.**

7. (1) An agreement may provide that any agricultural produce of the farmer of a class stipulated in the agreement shall not be sold except to or through a person nominated in the agreement.

(2) The class of the agricultural produce concerned and the names and addresses of any buyer shall be noted on the certificate of indebtedness.

(3) Where a buyer is nominated in an agreement a copy of the certificate of indebtedness shall be served by the bank on the buyer within one month of the signature of the certificate.

(4) A bank may, on the application of a farmer, authorize the farmer to sell any or all of his agricultural produce of the class stipulated in the agreement to or through a person other than a buyer nominated in the agreement.

(5) Where the bank determines that the person to whom the farmer is authorised to sell agricultural produce under subsection (4) shall be a buyer it shall serve notice on that person and on the Registrar of Deeds in the prescribed form stating that that person shall, henceforth, be a buyer and, upon the serving of such notice upon him, that person shall be a buyer.

(6) Any farmer who sells agricultural produce of a class stipulated in the agreement to a person other than the buyer to whom or through whom he has undertaken to sell such produce save under an authority given under subsection (4) shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding R200.

##### **Payment by a Buyer to a Bank.**

8. (1) Where any money owing by a farmer under any agreement containing a provision of the nature described in section 7 (1) becomes due and payable and is not paid by the farmer within such time as is stipulated in the agreement, the bank may, by notice in the prescribed form served on the buyer, notify him that moneys are owing to the bank and that it invokes the provisions of this section.

(2) On receiving notice in terms of subsection (1), the buyer shall pay to the bank any moneys which may then be owing, or which may, from time to time thereafter be owing, by him to the farmer by reason of the sale of agricultural produce of the class stipulated in the agreement :

Provided that where a buyer acts as an agent for the farmer or for the purchaser of agricultural produce he shall be entitled to retain any expenses reasonably incurred in marketing the produce as well as such reasonable commission as is payable to him by the farmer for service rendered.

## **B.7**

(3) The buyer shall make payment to the bank in accordance with the provisions of subsection (2) until the bank shall notify him that the debt owing to it by the farmer is satisfied or that it no longer wishes to enforce its rights under this section :

Provided that the bank may at any time require a buyer liable to make payment to the bank in terms of this section to pay part only of the proceeds of any agricultural produce to the bank or to make payment of a stated sum only.

(4) The bank shall refund to the farmer any overpayment it may receive in respect of moneys owing to it.

(5) The buyer shall pay to the bank any moneys due to it under the provisions of this section within thirty days —

- (a) of the sale where the buyer is himself the purchaser of the produce ;
- (b) of receiving the purchase price of the produce where the buyer acts as an agent.

(6) The bank may recover from the buyer any moneys which should have been paid to it in accordance with the provisions of this section if such moneys are not paid within the time prescribed in subsection (5) and it shall be no defence in any action brought by the bank against a buyer that the buyer has made payment, in contravention of the provisions of this section, to the farmer or to any other person :

Provided, however, that the buyer shall have an action against the farmer or such other person for the recovery of the amount paid where it has made payment to the bank.

### **Income Tax.**

9. Where a buyer has been appointed agent of a farmer in accordance with the provisions of section 49 of the Income Tax (Consolidation) Proclamation, 1959, the buyer shall pay any sum owing as tax before making payment under this Act.

### **Special Provision where the Buyer is a Co-operative.**

10. (1) Notwithstanding anything to the contrary, whether contained in any law or otherwise of legal force or effect, a co-operative society registered in terms of section 7 of the Co-operative Societies Law, 1962, may be nominated as a buyer and shall possess the rights, and be subject to the obligations, of a buyer under section 8.

(2) Notwithstanding the provisions of section 8 (2) a co-operative society may retain moneys owing to the farmer which it may lawfully appropriate in settlement of a debt owed to it by the farmer and which arose prior to the giving of notice by the bank to the co-operative in accordance with the provisions of section 8 (1).

## **B.8**

### **PART IV**

#### **HYPOTHECATION AND SALE OF THE MOVABLE ASSETS OF A FARMER**

##### **Hypothecation of Movable Assets.**

11. (1) Where an agreement provides that this section shall apply thereto, the movable assets of a farmer, or any stipulated item or class of such assets shall, on the signature of the certificate of indebtedness, and subject to the provisions of section 5 (2), be hypothecated to the bank as fully and effectively as if they had been hypothecated in terms of a notarial bond and, on insolvency, the claim of the bank in respect of the proceeds of such movable property shall be a preferent claim which shall be preferent to the claim of the holder of any notarial bond, general or special, executed at any time subsequent to the signature of the certificate of indebtedness.

(2) Where any movable assets hypothecated to the bank in accordance with the provisions of subsection (1) are attached and sold in execution of the order of any court in respect both of a debt for which the property is a security under this Act and of any other debt the bank shall be entitled to be paid in full out of the proceeds of the property before any unsecured creditor of the farmer receives payment.

##### **Special Provision where Livestock Hypothecated.**

12. (1) Where any flock or herd of any livestock forms part of the movable assets of a farmer which are hypothecated to a bank in accordance with the provisions of section 11 the farmer shall not slaughter, sell, donate, loan, hypothecate, encumber, or alienate such flock or herd or any portion thereof in such a manner as to effect materially the security of the bank without the permission of the bank being first had and obtained.

(2) Nothing in this section shall prevent the sale of livestock to a buyer or under an authority given under section 7 (4).

(3) A farmer who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding R200.

##### **Marking of Hypothecated Property.**

13. (1) An agreement may provide that any movable assets which are hypothecated in accordance with the provisions of section 11 be marked by the farmer, if called upon to do so by the bank, in a manner prescribed in the agreement and that, where livestock are required to be so marked, their progeny shall be similarly marked.

(2) Any farmer who fails to mark his assets when called upon to do so in accordance with the provisions of subsection (1) and any person who tampers with or defaces a mark made in terms of this section shall be guilty of an offence and shall be liable to a fine not exceeding R200.

**Sale of Hypothecated Property without an Order of Court.**

14. (1) An agreement may provide that a bank shall have the following rights —

- (a) a right upon the happening of an event stipulated in the agreement as being an event authorizing the seizure of the movable assets of the farmer or of any item or class thereof, to take possession of such assets ;
- (b) where possession of any assets have been so taken a right, after an interval of five clear days, to sell the assets either by auction or, if the agreement so provides, by private treaty, and either for a lump sum payment or payment by instalments ;
- (c) an obligation, in the event of such power of sale being exercised, to apply the proceeds of sale in and towards the discharge of the debts owed to the bank by the farmer, and the costs of seizure and sale, and pay the surplus, if any, of the proceeds to the farmer.

(2) The bank shall endeavour to exercise its powers under this section as read with the agreement, in a manner least onerous to the farmer and, in particular, shall not seize any assets which the farmer requests the bank or its servant or agent not to seize if there are other and adequate movable assets belonging to the farmer which may be seized under the agreement in satisfaction of the debt owing to the bank.

(3) The existence of a provision in an agreement of the nature described in subsection (1) shall be noted on the certificate of indebtedness.

(4) Where movable assets liable to seizure under subsection (1) include crops or horticultural produce, the power to take possession of such crops or produce under that subsection shall include power to reap or gather the crops or produce.

(5) Any person who —

- (a) obstructs or hinders any servant or agent of a bank seeking to enforce the rights of the bank in terms of this section ;
- (b) conceals from such servant or agent property liable to seizure in terms of this section ;
- (c) seeks to mislead such servant or agent by giving false information in connexion with such property ;

shall be guilty of an offence and liable on conviction to a fine not exceeding R200.

## SUPPLEMENTARY

**Statement by a Farmer of his Assets and Liabilities.**

15. (1) No farmer shall, in connexion with the negotiation of an agreement, make a statement of his assets or liabilities which is false or misleading in any material particular.

(2) A bank may, where any movable assets of a farmer are hypothecated to it under the provisions of section 11, at any time, and from time to time, serve notice upon a farmer calling upon him to make inventory of his hypothecated assets and of all his liabilities and to deliver to the bank the inventory within such reasonable time as may be specified in the notice.

(3) The farmer shall, in his inventory, declare any charges or encumbrances which may exist in relation to any of the assets listed and any rights which third parties may possess in relation to such assets whether under an agreement of loan or otherwise.

(4) Any farmer who contravenes the provisions of subsection (1), or who fails to make an inventory for the purposes of subsection (2) within the time specified, or who makes an inventory which is false or misleading in any material particular, shall be guilty of an offence and shall be liable to a fine not exceeding R200.

**Security other than under the Act.**

16. An Agreement may provide for security collateral, additional, or as an alternative to any security which may be afforded by this Act, for the payment of any moneys owing, or which may become owing, to a bank.

**Regulations.**

17. The Minister may make regulations —

- (a) prescribing anything which in this Act is required or permitted to be prescribed;
- (b) prescribing the form of any document referred to in this Act and, subject to the provisions of this Act, the particulars it shall contain;
- (c) prescribing the fees of office to be charged in respect of any act, matter, or thing required or permitted to be done by the Registrar of Deeds;
- (d) making provision for the issue of copies of documents referred to in this Act in the event of loss;
- (e) generally for the better carrying out of the provisions of this Act.

Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.11

**THE STATE LAND (AMENDMENT) ACT, 1967**

No. 3



of 1967

**AN ACT TO AMEND THE STATE LAND LAW**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the State Land (Amendment) Act, 1967.

**Addition of Section 7 to Law 29 of 1966.**

2. The State Land Law, 1966, is amended by the addition after section 6 of the following section —

“ 7. (1) There is hereby established a fund into which shall be paid the proceeds of the sales of all state land which is situated outside a place declared to be a township under the provisions of the Townships Proclamation (Chapter 120) until such time as an aggregate amount of R1,000,000 has been so paid.

(2) The fund established under subsection (1) shall be vested in the National Development Bank established under the National Development Bank Law, 1963, and shall form part of the unrecallable capital of the Bank.”.

Passed by the National Assembly this day, the 16th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

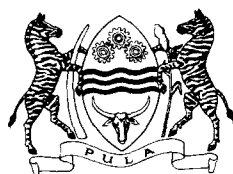




B.13

**THE WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT)  
ACT, 1967**

No. 4



of 1967

**AN ACT TO AMEND THE WIDOWS' AND ORPHANS' PENSIONS LAW, 1965**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title And Commencement**

1. This Act may be cited as the Widows' and Orphans' Pensions (Amendment) Act, 1967, and shall be deemed to have come into operation on the 14th January, 1966.

**Amendment to Section 39 of Law No. 34 of 1965**

2. Section 39 of the Widows' and Orphans' Pensions Law, 1965 (hereinafter referred to as the principal law) is amended by the addition at the end of the proviso thereto of "Further provided that nothing in the foregoing proviso shall disentitle a contributor to any benefit which, but for the provisions thereof, he would otherwise have enjoyed by virtue of section 11 (3) of this Law."

**Amendment to Second Schedule of Law No. 34 of 1965**

3. Table B of the Second Schedule of the principal law is amended in the fourteenth line of the vertical column headed "35" by the substitution for "4.01" of "5.01".

Passed by the National Assembly this day, the 16th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



B.15

**THE TOTALIZATOR CONTROL ACT, 1967**

No. 5



of 1967

**AN ACT TO CONTROL THE USE OF TOTALIZATORS**

Date of Assent : 21.4.67.

Date of Commencement : 21.4.67.

ENACTED by the Parliament of Botswana

**Short Title.**

1. This Act may be cited as the Totalizator Control Act, 1967.

**Interpretation.**

2. In this Act, unless the context otherwise requires —

“Commissioner” means the Commissioner of Revenue and, except in section 3, includes any public officer to whom the Commissioner has delegated the exercise of any power or performance of any duty under that section;

“horse” includes any pony, galloway or donkey;

“licence” means a licence issued under the provisions of section 6 ;

“race” means any foot-race, horse-race, dog-race, cycle-race, motor-race, motor-cycle race or boat-race and any other race which the Minister may by notice in the *Gazette* declare to be a race;

## **B.16**

“race club” means any club or association of persons promoting and controlling racing;

“race course” means the place at which a race is or is to be held;

“totalizator” means the contrivance for betting known as the totalizator or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

### **Delegation.**

3. The Commissioner may by directions in writing delegate to any public officer the exercise of any power or performance of any duty vested in him by this Act.

### **Use of unlicensed Totalizator an Offence.**

4. (1) No person shall use or permit the use of a totalizator in respect of which a licence has not been granted in terms of this Act.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

### **Lottery conducted on totalizator not unlawful.**

5. A lottery conducted on a totalizator licensed in accordance with the provisions of section 6 shall be deemed to be a lottery authorized by law.

### **Licensing of Totalizators.**

6. (1) The Commissioner may, upon written application, and payment of the prescribed fee issue a licence in the prescribed form to a race club to use a totalizator.

(2) A separate licence shall be required in respect of each race course and each day on which a race meeting is held.

(3) No licence shall be issued in respect of a Sunday, Christmas Day or Good Friday.

(4) The Commissioner may cancel any licence granted under this section if default is made in complying with any provision of this Act.

### **Totalizators transactions to be recorded.**

7. Every transaction effected by means of a totalizator shall be recorded in a manner approved by the Commissioner and so that, as far as may be practicable, the recording shall be in the uninterrupted view of the public.

### **Persons under 18 years may not use Totalizator.**

8. Any person in charge of or having control of a totalizator, or any assistant

of such person, who issues a ticket to any person upon credit, or who accepts any money from or issues a ticket or pays any dividend or money to, a person apparently under the age of eighteen years shall be guilty of an offence.

**Limiting Commission and Prescribing Tax.**

9. Where any totalizator is used under the provisions of this Act —

- (a) the totalizator commission deducted by the licence holder shall not exceed fifteen per centum of the gross takings of each licenced totalizator;
- (b) there shall be payable by the licence holder to the Government at the end of each day on which the totalizator is used a tax calculated, on the gross takings of each licenced totalizator for that day, at the rate of 2½%.

**Act does not validate betting Transactions.**

10. Nothing in this Act shall be deemed to give any betting transaction any authoritative or legal effect not otherwise attached thereto or to affect the common law in that regard.

**Police powers of entry and inspection.**

11. (1) Any police officer of or above the rank of Sub-Inspector —

- (a) if he has reasonable grounds for suspecting that an offence against this Act is taking place or has taken place may without warrant at any time enter upon any race course or other place whatever and conduct a search thereon, and make any seizure of articles thereon as will secure evidence of the commission of such offence; and
  - (b) may enter at any time any race course for the purpose of general police supervision, and may eject any drunken, noisy or disorderly person found on such premises.
- (2) Any person who resists, hinders or obstructs any police officer in the exercise of his powers under this section shall be guilty of an offence.

**Penalties.**

12. Any person convicted of an offence under this Act shall be liable upon a first such conviction to be sentenced to a fine not exceeding R50 or, in default of payment, to imprisonment for a period not exceeding three months, and for a second or subsequent such conviction to imprisonment for the said period, without the option of a fine, or to both such fine and such imprisonment.

**Minister may make Regulations.**

13. The Minister may make regulations prescribing the form of licence and the fee therefor, the method by which the tax payable under section 9 shall be collected and generally for the better administration of the Act.

**B.18**

Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.19

**THE PUBLIC ORDER ACT, 1967**

No. 6



of 1967

**AN ACT TO REGULATE AND CONTROL PUBLIC MEETINGS AND PUBLIC PROCESSIONS**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Public Order Act, 1967.

**Interpretation.**

2. In this Act, unless the context otherwise requires —

“controlled area” means any area declared by the Minister to be a controlled area in pursuance of the provisions of section 4(1);

“public meeting” or “meeting” means any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise;

“public place” includes any public way and any building or place to which for the time being, the public are entitled or permitted to have access either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meeting or assembly;

## **B.20**

“public procession” or “procession” means a procession in, through, across or along a public place;

“public way” includes any highway, market place, square, street, bridge or other way which is lawfully used by the public.

### **Powers for the Preservation of Public Order on the Occasion of Public Meetings and Public Processions**

3. If any police officer of or above the rank of Assistant Superintendent, having regard to the time or place at which and the circumstances in which any public meeting or any public procession is taking place or is intended to take place and in the case of a public procession to the route taken or proposed to be taken by the procession, has reasonable grounds for believing that the meeting or the procession, as the case may be, may occasion serious public disorder, he may give directions imposing on the persons organising or taking part in the meeting or procession such conditions as appear to him necessary for the preservation of public order, including, in the case of a procession, conditions prescribing the route to be taken by the procession and conditions prohibiting the procession from entering any public place specified in the directions:

Provided that no conditions restricting the display of flags, banners, or emblems shall be imposed under this section except such as are reasonably necessary to prevent a breach of the peace.

### **Regulation of Certain Public Meetings and Public Processions.**

4. (1) The Minister may, by notice in the *Gazette*, declare any area of Botswana to be a controlled area for the purposes of this section.

(2) For the purposes of this section, the regulating officer for any controlled area —

- (a) which forms part of any tribal territory, shall be the Chief of that tribal territory; and
- (b) in any other case, shall be the District Commissioner of the district which includes such area.

(3) Any person who wishes to convene a public meeting or to form a public procession within a controlled area shall first make application in that behalf to the regulating officer of the area concerned, and, unless such officer is satisfied that such public meeting or public procession is likely to cause or lead to a breach of the peace, he shall issue a permit in writing authorising such public meeting or public procession and specifying the name of the person to whom it is issued and such conditions attaching to the holding of such public meeting or public procession as the regulating officer may deem necessary to impose for the preservation of public peace and order.



## **B.21**

(4) It may be a condition of every permit issued under this section that the person to whom a permit has been issued shall be present at the public meeting or with the public procession from its first assembly to its final dispersal.

(5) Without prejudice to the generality of subsection (3) the conditions which may be imposed in issuing a permit under that subsection may relate to all or any of the following matters —

- (a) the date upon which and the place and time at which the public meeting or public procession is authorised to take place;
- (b) the maximum duration of the public meeting or public procession;
- (c) the granting of adequate facilities for the the recording of the proceedings of such public meeting in such manner and by such person or class of person as the regulating officer may specify:

Provided that such conditions may not require the convener of a public meeting to provide equipment;

- (d) any other matter designed to preserve public peace and order.

(6) Any police officer may stop any public procession within a controlled area for which no permit has been issued under this section or which, if such permit has been issued, contravenes or fails to comply with any conditions specified therein, and may order any such public procession or any public meeting which has been convened in a public place without such a permit or which, if such a permit has been issued, contravenes or fails to comply with any conditions of such permit, to disperse.

(7) Any regulating officer may issue directions for the purpose of regulating within his controlled area the extent to which music may be played or to which music or human speech or any other sound may be amplified, broadcast, relayed or otherwise reproduced by artificial means —

- (a) in public places; or
- (b) in places other than public places if such playing, amplification, broadcasting, relaying or other reproduction is, in his opinion, likely to affect persons who are or may be in public places.

### **Penalty for Disobeying a Direction or Violating the Conditions of a Permit.**

5. Any person who knowingly —

- (a) opposes or disobeys any direction issued under section 3 or section 4(7);  
or
- (b) violates any condition of a permit issued under section 4(3);

shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or to be imprisonment for a period not exceeding six months or to both such fine and imprisonment.

## **B.22**

### **When Public Meetings and Public Processions are Unlawful.**

6. Any public meeting or public procession within a controlled area —

- (a) which takes place without a permit issued under section 4(3); or
- (b) in which three or more persons taking part neglect or refuse to obey any order given under section 4(6);

shall be unlawful, and all persons taking part in such public meeting or public procession and, in the case of a public meeting or public procession for which no permit has been issued, all persons taking part in convening or directing such public meeting or public procession shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

### **Exemptions.**

7. Unless the Minister shall, by notice in the *Gazette* direct otherwise, the provision of sections 4, 5 and 6 shall not apply —

- (a) to any public meeting convened —
  - (i) for any religious, educational, recreational, sporting, social or charitable purpose;
  - (ii) for the conduct of any agricultural or industrial show or for the sale of goods or cattle;
  - (iii) for the purpose of viewing or participating in any theatrical, cinematographic or musical event or any circus or firework display;
  - (iv) in kgotla;
  - (v) by a town council or district council;
- (b) to any public procession formed for any religious, educational, recreational, sporting, social or charitable purpose.

### **Powers for the Preservation of Public Order in Respect of Public Meetings and Processions.**

8. (1) If at any time the Minister is of opinion that, by reason of particular circumstances existing in Botswana or in any part thereof, the powers conferred by this or any other written law will not be sufficient to enable the police to prevent serious public disorder being occasioned by the holding of public processions or public meetings in Botswana or any part thereof, he may by order published in the *Gazette* and in such manner as he may deem sufficient to bring the order to the knowledge of the general public in the area to which it relates, prohibit the holding within Botswana or any part thereof of all public processions or public meetings, or of any class of public processions or public meetings

specified in the order, for such period not exceeding three months as may be so specified.

(2) An order made under subsection (1) shall have effect from the time when it is first published in any manner authorised by the provisions of that subsection or from such later time as may be specified in the order, and a certificate under the hand of the Minister specifying the time of publication other than a publication in the *Gazette* shall be conclusive evidence thereof in all legal proceedings.

(3) Any person who knowingly —

- (a) organises or assists in organising any public procession or public meeting held or intended to be held in contravention of any order made under this section; or
- (b) takes part in or attends, or incites any other person to take part in or attend, any such procession or meeting;

shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(4) A police officer may, without warrant, arrest any person reasonably suspected by him to be committing an offence against this section.

**Repeal.**

9. The Public Order Proclamation (Cap. 54) is repealed.

Passed by the National Assembly this day, the 20th March, 1967.

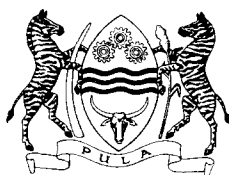
G.T. MATENGE,  
Clerk of the National Assembly.



B.25

**THE TRADING (AMENDMENT) ACT, 1967**

No. 7



of 1967

**AN ACT TO AMEND THE TRADING ACT**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Trading (Amendment) Act, 1967.

**Amendment of Section 48 of Act 6 of 1966.**

2. (1) Section 48 of the Trading Act, 1966, is amended in paragraph (e) of subsection (4) by the deletion in the second column of "Butcher" and the substitution of "Fresh Produce".

(2) The provisions of subsection (1) shall be deemed to have come into operation on the 1st January, 1967.

Passed by the National Assembly this day, the 16th March, 1967.

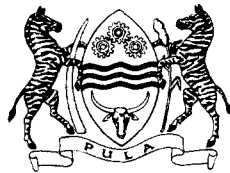
G.T. MATENGE,  
Clerk of the National Assembly.



B.27

**THE REFUGEES (RECOGNITION AND CONTROL) ACT, 1967**

No. 8



of 1967

**AN ACT TO MAKE PROVISION FOR THE RECOGNITION AND CONTROL OF CERTAIN POLITICAL REFUGEES; TO PREVENT IN CERTAIN CIRCUMSTANCES THEIR REMOVAL FROM BOTSWANA UNDER THE IMMIGRATION (CONSOLIDATION) LAW, 1966; AND TO MAKE PROVISION INCIDENTAL THERETO OR CONNECTED THEREWITH.**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**PART I**  
**PRELIMINARY**

**Short Title and Commencement.**

1. This Act may be cited as the Refugees (Recognition and Control) Act, 1967, and shall come into operation on a date to be appointed by the Minister by notice in the *Gazette*.

**Interpretation.**

2. (1) In this Act, unless the context otherwise requires —

“Committee” means a Refugee Advisory Committee established under section 3 ;

## **B.28**

“immigrant” means any person in Botswana other than —

- (a) a citizen of Botswana; or
- (b) an established resident;

“Immigration Law” means the Immigration (Consolidation) Law, 1966 (No. 19 of 1966);

“political refugee” means an immigrant who has suffered or is likely to suffer political persecution in the country from which he has entered Botswana;

“recognized refugee” means an immigrant whom the Minister has declared in terms of section 8 (1) that he recognizes as a political refugee;

“removed from Botswana” does not include deportation in terms of section 24 of the Immigration Law.

(2) Subject to the provisions of subsection (1), and unless the context otherwise requires, any word or expression defined in the Immigration Law shall bear the same meaning in this Act as in the Immigration Law.

### **Establishment of Refugee Advisory Committees.**

3. (1) The Minister may, by notice in the *Gazette*, establish one or more Refugee Advisory Committees to carry out the functions conferred on such Committees by or under this Act.

(2) A Committee shall consist of a Chairman and not less than two, nor more than four, other members.

## **PART II**

### **REFUGEES**

#### **Enquiry by Committee.**

4. A Committee may on its own motion and shall at the request of the Minister hold an enquiry into the case of any immigrant who claims to be a political refugee, or who is in Botswana in such circumstances as in the opinion of an immigration officer or the Minister indicate that he may be a political refugee, and shall report thereon to the Minister.

#### **Powers and Procedure of Committee.**

5. (1) For the purpose of conducting an enquiry in terms of section 4, a Committee shall have power —

- (a) by notice under the hand of its Secretary or Chairman, to summon before it any person in respect of whom the enquiry is to be held;



## **B.29**

- (b) by notice under the hand of its Secretary or Chairman, to summon before it any person who may be able to give information which will assist the Board, or call upon him to submit such information in writing;
- (c) to examine any person appearing before it on oath or otherwise;
- (d) to call upon any person to furnish the Committee with such information as it considers will assist it in the exercise of its functions whether in the form of a statutory declaration, in writing, orally or otherwise and to produce to the Committee any documents which are in his possession or under his control and which the Committee considers may be relevant to the enquiry.

(2) The proceedings of a Committee shall be in private and shall be conducted in such manner as the Committee may determine.

(3) Any person who —

- (a) refuses or fails without sufficient reason to appear before a Committee at the time and place specified in a notice given under subsection (1) (a) or (b);
- (b) gives false evidence or information to a Committee or who attempts to mislead the Committee;
- (c) fails to comply with a notice given under subsection (1) (d);

shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### **Restriction on Removal of Immigrant Who May be a Refugee.**

6. Where an immigrant who is liable to be removed from Botswana under the provisions of the Immigration Law is summoned to appear before a Committee under the provisions of section 5 (1) (a) —

- (a) he shall not be so removed pending a determination by the Minister in accordance with the provisions of section 8; and
- (b) pending such determination he may be detained by an immigration officer for a period not exceeding 28 days; if he is so detained the provisions of section 15 (2) and (3) of the Immigration Law shall apply in relation to him as if he were being detained under subsection (1) of that section.

### **Right of Detained Immigrant to Leave Botswana.**

7. Notwithstanding the provisions of section 6 (b), any person detained in pursuance of that provision shall, unless liable to detention under some other lawful authority, be allowed to depart from Botswana for the purpose of entering some other country if he satisfies an immigration officer that it is lawful for him to enter such other country without his possessing a right of re-entry to Botswana and that he possesses the means and in fact intends to enter that country.

## **B.30**

### **Recognition of Immigrant as Political Refugee.**

8. (1) When the Minister receives the report of an enquiry held in terms of section 4 he may —

- (a) subject to the provisions of paragraph (b), if he is of the opinion that the person who has been the subject of the enquiry is a political refugee, declare that he recognises such person as a political refugee ; or
- (b) if he is of the opinion that the person who has been the subject of the enquiry is not a political refugee or if he considers that there is no or insufficient reason to treat him as a political refugee declare that he does not recognize such person as a political refugee ; or
- (c) direct the Committee to reopen the enquiry or to make further report in the matter.

(2) Where, in terms of subsection (1), the Minister declares that he does not recognize a person as a political refugee such person shall, if liable to be removed from Botswana under the Immigration Law, be so removed and shall, whether so liable or not, be subject in all respects to the provisions of that law.

(3) Save where this Act otherwise provides, a person who is recognized as a political refugee shall be subject to the provisions of the Immigration Law in all respects as if the declaration of recognition had not been made.

### **Restriction on Removal and Control of Refugee.**

9. (1) Subject to the provisions of section 10, a recognized refugee shall not be removed from Botswana under the provisions of the Immigration Law except to a country approved by the Minister, being a country in which, in the opinion of the Minister, the refugee will not be subject to political persecution.

(2) Notwithstanding the provisions of subsection (1), a recognized refugee who is liable to be removed from Botswana under the provisions of the Immigration Law may be detained by an immigration officer pending such removal, and if he is so detained the provisions of section 15 (2) and (3) of the Immigration Law shall apply in relation to him as if he were being detained under subsection (1) of that section :

Provided that where in the opinion of the Minister, delay is likely to occur before such removal may be effected the Minister may, in his sole and absolute discretion, direct that the refugee shall not be detained under this subsection but shall while he remains in Botswana be subject to all or any of the following conditions —

- (a) that the refugee shall reside at a place or within an area specified by the Minister ;
- (b) that the refugee shall not depart from such place or area or only depart therefrom subject to such conditions as may be specified by the Minister ;

- (c) that the refugee shall give recognizances for his good behaviour in such form and subject to such conditions as may be specified by the Minister ;
- (d) that the refugee shall report to the police or such other authority as may be specified by the Minister in such manner as he may determine ;
- (e) that the refugee shall not take an active part in the politics of Botswana or of any other country in Africa or not take part in such activities, being activities of a political nature, as may be specified by the Minister ;
- (f) such ancillary or additional conditions as may appear to the Minister to be necessary or desirable in the circumstances of the case.

(3) The Minister may at any time withdraw or modify a direction under the proviso to subsection (2).

(4) Any recognized refugee who having been released from detention in terms of the proviso to subsection (2) fails to comply with any condition of such release shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Departure of Refugee from Botswana.**

10. (1) A recognized refugee who is not detained under section 9 (2) or other lawful authority may leave Botswana at any time.

(2) A recognized refugee shall on his departure from Botswana cease to be a recognized refugee.

(3) Notwithstanding the provisions of section 9 (1) any recognized refugee who is detained under section 9 (2) shall, unless he is liable to detention under some other lawful authority, be allowed to depart from Botswana for the purpose of entering some country other than a country approved by the Minister in terms of section 9 (1) if he certifies in writing that he wishes to enter that other country and satisfies an immigration officer that it is lawful for him to enter that country without his possessing a right of re-entry to Botswana and that he possesses the means to do so.

#### **Review of Case of Recognized Refugee.**

11. (1) Not more than six months after the recognition of a refugee under section 8, and thereafter at intervals of not more than six months, the case of that refugee shall be reviewed by a Committee, who shall advise the Minister —

- (a) whether to exercise any of his powers under this Act or the Immigration Law in relation to that refugee ;
- (b) as to the moral and economic welfare of that refugee ; and what steps should be taken to secure the same.

## **B.32**

(2) On receiving the report of a review held in terms of subsection (1) the Minister may —

- (a) if he considers that there is no or insufficient reason to continue treating the refugee as a political refugee declare that he no longer recognizes him as a political refugee ;
- (b) direct the Committee to reopen the review or to make further report in the matter ;
- (c) take such alternative or additional steps open to him under this Act or otherwise in relation to the refugee as may appear to him most proper.

(3) The provisions of section 5 shall have effect for the purposes of a review under subsection (1) as they have for the purposes of an enquiry under section 4.

### **Recognizances.**

12. Where under the provisions of the proviso to section 9 (2) a recognized refugee is required to give recognizances and such recognizances include the entering into of a bond for an amount of money to be forfeited if the conditions of the bond are broken, the Chief Immigration Officer may, upon breach of any condition of the bond, make application to a court of competent jurisdiction which may give judgment against the refugee or his sureties in accordance with the conditions of the bond.

### **Residence of Refugee Not Ordinary Residence.**

13. For the purposes of any other written law, other than a taxation law, any period during which an immigrant has resided in Botswana as a recognized refugee shall not be regarded as a period during which he has been ordinarily resident in Botswana.

### **Regulations.**

14. The Minister may make regulations —

- (a) providing for the custody of the property of any political refugee who is detained ;
- (b) prescribing the form of any notice which may be given under this Act ;
- (c) prescribing the allowances payable to members of a Committee and the fees payable to persons giving evidence before it ;
- (d) generally for the better carrying out of the provisions of this Act.

Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.33

**THE NATIONAL DEVELOPMENT BANK (AMENDMENT) ACT, 1967**

No. 9



of 1967

**AN ACT TO AMEND THE NATIONAL DEVELOPMENT BANK LAW**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the National Development Bank (Amendment) Act, 1967.

**Amendment of Section 7 of Law 13 of 1963.**

2. Section 7 of the National Development Bank Law, 1963, (hereinafter referred to as the principal law) is amended —

(a) in subsection (1) by the insertion after “loan funds,” of “a fund established under section 11A,”;

(b) in subsection (2) by the addition of the following paragraphs —

“(c) the fund established under section 7 of the State Land Law, 1966;

(d) such moneys as the bank may from time to time accept by way of donation or bequest to the bank other than moneys required to be paid into a special fund established under section 11A.”

**B.34**

**Amendment of Section 8 of Law 13 of 1963.**

3. Section 8 of the principal law is amended by the insertion after "unrecallable capital" of "other than on the moneys referred to in paragraph (d) of subsection (2) of section 7".

**Insertion of Section 11A into Law 13 of 1963.**

4. The principal law is amended by the insertion after section 11 of the following section —

**"Special Funds.**

11A. (1) The bank may from time to time accept moneys by way of donation or bequest subject to a condition that they shall be applied to any specific purpose or used in a specified manner, and if the bank so accepts any such moneys it shall establish a special fund and pay those moneys into that fund.

(2) The bank shall apply the moneys of a fund established under subsection (1) for the purposes, and in the manner, specified by the person who gave or bequeathed the moneys.

(3) The bank shall not accept a donation or bequest in terms of subsection (1) which is required to be applied for a purpose, or in a manner inconsistent with the purpose, for which the Bank is established under section 3."

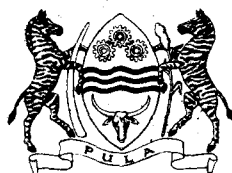
Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.35

**THE COURT OF APPEAL (AMENDMENT) ACT, 1967**

No. 10



of 1967

**AN ACT TO AMEND THE COURT OF APPEAL PROCLAMATION**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Court of Appeal (Amendment) Act, 1967.

**Insertion of Section 3A in Cap. 3.**

2. The Court of Appeal Proclamation (Chapter 3) is amended by the insertion after section 3 of the following new section —

**“Right of the Attorney-General to Appeal.**

3A. If the Attorney-General is dissatisfied with a decision of the High Court upon a point of law in the exercise of its original, revisionary, or appellate jurisdiction in a case which relates to an offence, the Attorney-General may appeal against such decision to the Court of Appeal:

Provided that —

- (i) the decision of the Court of Appeal on such an appeal shall in no way affect the finality of the judgment of the High Court in the case so brought on appeal:

**B.36**

- (ii) the person who was the accused in the case shall have the right, should he so desire, at his own expense to be represented by his legal representative."

Passed by the National Assembly this day, the 20th March, 1967.

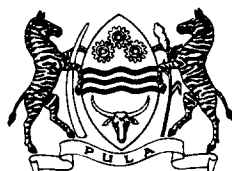
G.T. MATENGE,  
Clerk of the National Assembly.



B.37

**THE LAND SURVEY (AMENDMENT) ACT, 1967**

No. 11



of 1967

**AN ACT TO AMEND THE LAND SURVEY PROCLAMATION**

Date of Assent : 21.4.67.

Date of Commencement : 21.4.67.

ENACTED by the Parliament of Botswana .

**Short Title .**

1. This Act may be cited as the Land Survey (Amendment) Act, 1967 .

**Amendment of Section 34 of Proclamation 80 of 1959 .**

2. Section 34 of the Land Survey Proclamation, 1959, is amended by the deletion of the proviso and by the substitution of —

“ Provided that the Surveyor-General may sign and approve a general plan or a diagram framed by his direction from general plans, diagrams or survey records filed in his office or registered in the deeds registry, without the signature thereon of the land surveyor or land surveyors who signed such general plans, diagrams or survey records .” .

Passed by the National Assembly this day, the 16th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



B.39

**THE ROAD TRAFFIC (AMENDMENT) ACT, 1967**

No. 12



of 1967

**AN ACT TO AMEND THE ROAD TRAFFIC LAW**

Date of Assent: 21.4.67.

Date of Commencement: 21 4.67.

ENACTED by the Parliament of Botswana.

**Short Title .**

1. This Act may be cited as the Road Traffic (Amendment) Act, 1967 .

**Minor Amendments to Law No. 14 of 1963 .**

2. The Road Traffic Law, 1963 (No. 14 of 1963) (hereinafter referred to as the principal law) is amended in sections 19, 32, 36 and 44 by the substitution for "March", wherever it occurs, of "January".

**Addition of Section 115 to Law No. 14 of 1963 .**

3. The principal law is amended by the addition of the following section —

**"Saving .**

115. Notwithstanding the repeal of the Motor Vehicle and Road Traffic Proclamation (Chapter 168) by section 114 all annual licences and exemptions lawfully issued or granted under the said Proclamation shall remain in full force and effect until the 1st January, 1968."

Passed by the National Assembly this day, the 20th March, 1967.

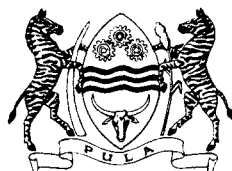
G.T. MATENGE,  
Clerk of the National Assembly.



B.41

**THE FINANCE AND AUDIT (AMENDMENT) ACT, 1967**

No. 13



of 1967

**AN ACT TO AMEND THE FINANCE AND AUDIT LAW**

Date of Assent: 21.4.67.

Date of Commencement: 21.4.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Finance and Audit (Amendment) Act, 1967.

**Amendment of Section 2 of Law 15 of 1965.**

2. Section 2 of the Finance and Audit Law, 1965, (hereinafter referred to as the principal law), is amended —

- (a) by the renumbering of the existing section as subsection (1);
- (b) by amending subsection (1) —
  - (i) in the definition of “accounting officer” by the deletion of “under Financial Instructions” and the substitution of “by the Minister by notice in the *Gazette*”;
  - (ii) in the definition of “General Orders” by the deletion of “for the conduct of public business” and the substitution of “defining the conditions of service of public officers”;
  - (iii) by the insertion after the definition of “public moneys” of the following definition —

“ “public officer” includes any person who is employed by the Republic ;”;

**B.42**

(c) by the addition of the following subsection —

“(2) Where the Minister is of the opinion that adequate provision exists for the management of moneys held in trust for, or on behalf of, a person other than the Government, being moneys of the nature described in paragraph (b) of the definition of “public moneys” in subsection (1), he may direct that such moneys shall not be public moneys for the purpose of that definition.”

**Insertion of Section 3A into Law 15 of 1965.**

3. The principal law is amended in Part II by the insertion prior to section 4 of the following section —

**“Functions of Minister.**

3A. The Minister shall so supervise the finances of Botswana as to ensure that a full account thereof is made to the National Assembly and that its financial control is maintained, and for such purposes shall, subject to the provisions of the Constitution and this Law, have the control and management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of Botswana.”

**Replacement of Section 4 of Law 15 of 1965.**

4. Section 4 of the principal law is repealed and the following section substituted —

**“Consolidated Fund.**

4. (1) No moneys shall be withdrawn from the Consolidated Fund or other public funds of Botswana except upon the authority of a warrant under the hand of the Minister; and no such warrant shall be issued unless the moneys may lawfully be withdrawn from the Consolidated Fund or other public funds in accordance with the provisions of section 120 of the Constitution.

(2) Money at the credit of the Consolidated Fund shall, except for day-to-day cash requirements, be kept in an account at such bank as the Minister may approve.

(3) Subject to the provisions of section 120 (4) of the Constitution, the Minister may authorise the investment of moneys standing to the credit of the Consolidated Fund either at call or subject to notice not exceeding twelve months; such investments together with any interest therefrom shall form part of the Consolidated Fund.”

**Amendment of Section 14 of Law 15 of 1965.**

5. Section 14 of the principal law is amended in paragraph (a) of subsection (1) by the deletion of “duties;” and the substitution of “duties, and shall be given such explanations and information by that officer;”

**Amendment of Section 19 of Law 15 of 1965.**

6. Section 19 of the principal law is amended —
- (a) by the addition at the ends of paragraphs (a) and (c), after the semi-colon, of “or”;
  - (b) by the insertion after paragraph (c) of —  
“(d) is or was at the time of such employment responsible for any damage to any stores or other Government property; ”;
  - (c) by the insertion after “deficiency, loss” where it appears for the first time of “, damage,”;
  - (d) by the insertion after “destroyed” of “or damaged”

**Amendment of Section 24 of Law 15 of 1965.**

7. Section 24 of the principal law is amended —
- (a) by the deletion of the head-note and by the substitution of —  
“**Financial Instructions and Inspection**”;
  - (b) by the addition of the following subsections —  
“  
(3) The Financial Secretary or any public officer deputed him —  
(a) shall be entitled to inspect all Government offices and shall be given access at all times thereto; and  
(b) shall be given all available information he may require with regard to public moneys, stamps, securities, stores, or other Government property and to all documents and records in respect thereof; and  
(c) shall be entitled at any time to inspect such moneys, property, documents and records;  
so far as may be necessary for the purpose of compliance with section 3A and subsection (1) of this section.  
(4) Nothing in this section shall be construed as authorising the President to issue, or requiring any person to obey, any instructions in relation to any moneys held in trust which contravene or are inconsistent with the terms of such trust. ”.

Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

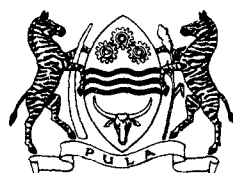
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B.45

**THE SPECIAL LOAN ACT, 1967**

No. 14



of 1967

**AN ACT TO PROVIDE FOR THE RAISING OF R785,000 FOR THE PURPOSES SPECIFIED IN THE SCHEDULE HERETO.**

Date of Assent: 12.5.67.

Date of Commencement: 19.5.67

ENACTED by the Parliament of Botswana

**Short Title.**

1. This Act may be cited as the Special Loan Act, 1967.

**Power to Raise Loan.**

2. The Minister is hereby authorised to raise by way of interest-free loan from the United Kingdom Government, subject to such terms and conditions as to repayment and otherwise as may be agreed between the Minister and the United Kingdom Government, a sum not exceeding R785,000 (*seven hundred and eighty five thousand rand*).

**B.46**

**Loan Charged upon Consolidated Fund .**

3. All sums required to repay any loan raised under this Act are hereby charged upon and shall be paid out of the Consolidated Fund .

**Application of Funds Borrowed .**

4. The loan funds raised under this Act shall be appropriated and applied only to the purposes specified in the Schedule .

**National Assembly to be Informed .**

5. As soon as practicable after the raising of a loan under this Act the Minister shall present a paper to the National Assembly containing a report on the loan and specifying the sum or sums borrowed, the terms and conditions of the loan, and any further information relating thereto which he may consider it appropriate to include .

**SCHEDULE**

*R*

Commutation (Officers designated under  
Her Majesty's Overseas Civil Service)

785,000

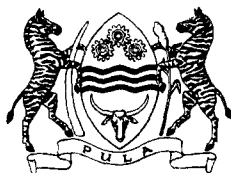
Passed by the National Assembly this day, the 20th March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.47

**THE MOENG COLLEGE COUNCIL AND COMMITTEE (DATE OF DISSOLUTION)  
ACT, 1967**

No. 15



of 1967

**AN ACT TO EXTEND THE LIFE OF THE COUNCIL AND COMMITTEE OF  
MOENG COLLEGE AS EXISTING IMMEDIATELY PRIOR TO THE 31ST  
DECEMBER, 1966.**

Date of Assent: 12.5.67.

Date of Commencement: 31.12.66.

ENACTED by the Parliament of Botswana.

**Short Title and Commencement**

1. This Act may be cited as the Moeng College Council and Committee (Date of Dissolution) Act, 1967, and shall be deemed to have come into operation immediately before the 31st December, 1966.

**Interpretation**

2. In this Act unless the context otherwise requires —

“Council” and “Committee” have the same meaning as in the principal law ;

“principal law” means the Moeng College Constitution Proclamation (Cap. 80);

“third appointed day” means the day to be appointed by the Minister responsible for the Education Law, 1966 (No. 40) of 1966 under section 1 (3) thereof.

**B.48**

**Existing Council and Committee of Moeng College to Continue Until Third Appointed Day.**

3. Notwithstanding anything to the contrary in the principal law, the present Council and Committee shall not dissolve on the 31st December, 1966, but shall continue in existence until the third appointed day and then dissolve.

Passed by the National Assembly this day, the 31st March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B. 49

**THE ARMS AND AMMUNITION (AMENDMENT) ACT, 1967**

No. 16



of 1967

**AN ACT TO AMEND THE ARMS AND AMMUNITION PROCLAMATION**

Date of Assent: 12.5.67.

Date of Commencement: 19.5.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Arms and Ammunition (Amendment) Act, 1967.

**Amendment of Section 5 of Proclamation No. 86 of 1959.**

2. Section 5 of the Arms and Ammunition Proclamation, 1959, (hereinafter referred to as the principal law) is amended in subsection (2) by the deletion of "twelve months" and the substitution of "two years".

**Amendment of Section 8 of Proclamation No. 86 of 1959.**

3. Section 8 of the principal law is amended in subsection (5) by the addition of the following paragraph —

"(f) if he is a *bona fide* client of that other person and that other person is a professional hunter licensed in terms of the Fauna Conservation Proclamation, 1961, (No. 22 of 1961)."

Passed by the National Assembly this day, the 20th March, 1967.

G. T. MATENGE,  
Clerk of the National Assembly.

1. The first step in the process of creating a new product is to identify a market need. This involves conducting market research to determine what consumers want and what problems they are trying to solve.

## 2. Concept Development

Once a market need has been identified, the next step is to develop a concept for a new product that addresses this need. This involves brainstorming ideas and creating a prototype.

## 3. Design

The design phase involves creating a detailed plan for the product, including its features, specifications, and materials. This is often done using computer-aided design (CAD) software.

## 4. Prototyping

Prototyping is the process of creating a physical model of the product. This allows designers to test the product's functionality and appearance before moving forward with production.

## 5. Testing

Testing involves evaluating the product's performance and reliability. This can be done through a variety of methods, including laboratory tests, field tests, and user testing.

## 6. Production

Once the product has been tested and approved, it is ready for production. This involves manufacturing the product in large quantities and distributing it to the market.

## 7. Distribution

Distribution involves getting the product into the hands of consumers. This can be done through a variety of channels, including retail stores, online marketplaces, and direct sales.

## 8. Marketing

Marketing involves promoting the product and creating awareness among potential customers. This can be done through a variety of methods, including advertising, public relations, and social media.

## 9. Sales

Sales involves selling the product to customers. This can be done through a variety of methods, including direct sales, retail stores, and online marketplaces.

## 10. Customer Support

Customer support involves providing assistance to customers who have questions or problems with the product. This can be done through a variety of methods, including phone support, email support, and live chat.

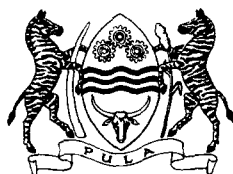
## 11. Feedback

Feedback involves collecting information from customers about their experience with the product. This can be done through a variety of methods, including surveys, focus groups, and social media.

B.51

**THE HOUSE OF CHIEFS (SALARIES AND ALLOWANCES) ACT, 1967**

No. 17



of 1967

**AN ACT TO PRESCRIBE THE SALARY AND ALLOWANCES TO BE PAID TO THE CHAIRMAN AND MEMBERS OF THE HOUSE OF CHIEFS**

Date of Assent: 12.5.67.

Date of Commencement : 19. 5.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the House of Chiefs (Salaries and Allowances) Act, 1967.

**Interpretation.**

2. In this Act, unless inconsistent with the context —

“Chairman” means the Chairman of the House ;

“House” means the House of Chiefs ;

“member” means any member of the House.

**Salary of Chairman.**

3. The Chairman shall be paid from moneys appropriated by law for such purpose a salary at the rate of six hundred rand a year.

## **B.52**

### **Salary of Members.**

4. (1) Every member who has taken his seat in the House shall be paid from moneys appropriated by law for such purpose a salary at the rate of five hundred rand a year.

(2) If a member is absent from any sitting of the House such salary shall not be paid in respect of the period commencing on the day of such absence and terminating immediately before the day on which he next attends a sitting of the House.

(3) For the purposes of the preceding subsection a member who is absent from any sitting of the House with the leave of the Chairman shall be deemed to attend such sitting.

### **Allowances of Chairman and Members.**

5. The Chairman and members shall be paid from moneys appropriated by law for such purpose the allowance prescribed in the Schedule.

### **Allowances Exempt from Income Tax.**

6. The allowances payable in terms of this Act shall be exempt from Income Tax.

## **SCHEDULE** (section 5)

### **Subsistence Allowance.**

1. The Chairman and any member shall receive an allowance at the rate of six rand for every day or part thereof exceeding four hours that he is necessarily absent from home in attending any meeting of the House or any Committee thereof.

### **Transport Allowance.**

2. (1) The Chairman and any member shall receive an allowance, calculated in accordance with the provisions of sub-paragraph (2), in respect of one return journey undertaken by him by the shortest route in his own motor vehicle or by any public road, rail, or air service —

- (a) from his home to any meeting of the House, or of any Committee thereof of which he is a member held while the House is not sitting; and
- (b) from any such meeting to his home during any adjournment of such meeting of three clear days or longer.

(2) Such allowance shall be —

- (a) where the journey or part thereof is performed in the member's own motor vehicle, at the rate of 12 cents a mile;



**B.53**

- (b) where the journey or any part thereof is performed by any public road, rail or air service, a sum equal to the fare actually paid up to a maximum of the ordinary first class fare payable on such service.

**Duty Allowance.**

3. Every member shall receive an allowance of five rand for every sitting of the House during the whole of which he presides in place of the Chairman.

Passed by the National Assembly this day, the 31st March, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



**THE MINISTERIAL OFFICES (MAXIMUM NUMBER) ACT, 1967**

No. 18



of 1967

**AN ACT TO INCREASE THE MAXIMUM NUMBER OF OFFICES OF MINISTER OF THE GOVERNMENT OF BOTSWANA AND DECREASE THE MAXIMUM NUMBER OF OFFICES OF ASSISTANT MINISTER WHICH MAY BE ESTABLISHED UNDER SECTION 43 OF THE CONSTITUTION.**

Date of Assent: 1st September, 1967.

Date of Commencement: 1st September, 1967.

ENACTED by the Parliament of Botswana.

**Short Title and Commencement**

1. This Act may be cited as the Ministerial Offices (Maximum Number) Act, 1967, and, subject to the provisions of section 3 (2), shall come into operation upon publication in the *Gazette*.

**Number of Ministerial Offices**

2. The number of offices of Minister of the Government of Botswana which may be established under section 43 (1) of the Constitution shall not exceed eight.

**Number of Offices of Assistant Minister**

3. (1) The number of offices of Assistant Minister which may be established under section 43 (2) of the Constitution shall not exceed two.

(2) The provisions of this section shall come into operation when a vacancy occurs in any of the offices of Assistant Minister as established at the date of publication of this Act.

**Repeal of Act No. 1 of 1966**

4. The Ministerial Offices (Maximum Number) Act, 1966, is repealed.

Passed by the National Assembly this day, the 31st August, 1967.

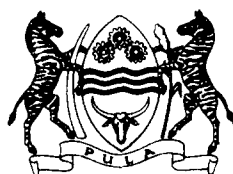
G.T. MATENGE,  
Clerk of the National Assembly.

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B.57

**THE IMMIGRATION (CONSOLIDATION) (AMENDMENT) ACT, 1967**

No. 19



of 1967

**AN ACT TO AMEND THE IMMIGRATION (CONSOLIDATION) LAW, 1966.**

Date of Assent: 13th September, 1967.

Date of Commencement: 15th September, 1967.

ENACTED by the Parliament of Botswana

**Short Title and Commencement**

1. This Act may be cited as the Immigration (Consolidation) (Amendment) Act, 1967, and except as provided in section 9(2) shall come into operation on publication in the *Gazette*.

**Amendment of Section 3 of Law No. 19 of 1966**

2. Section 3 of the Immigration (Consolidation) Law, 1966 (hereinafter referred to as the principal law) is amended in paragraph (b) of subsection (2) by the deletion of "or (7)".

**Amendment of Section 11 of Law No. 19 of 1966**

3. (1) Section 11 of the principal law is amended —

(a) by the deletion of subsection (1) and the substitution of —

“(1) Any person suspected of being —

(a) a prohibited immigrant;

**B.58**

- (b) a person liable to be declared to be an undesirable inhabitant of or visitor to the territory under the provisions of section 8(f);

may be detained by an immigration officer for such reasonable period, not exceeding fourteen days, as may be required for the purpose of making enquiries as to such person's identity and antecedents.

(2) An Immigration officer who detains any person under the provisions of subsection (1) shall, as soon as practicable, and in any event within a period of seven days, report such detention to the Minister.

- (3) Where any person suspected of being —

- (a) a prohibited immigrant by reason of the provisions of section 8(e);
- (b) a person liable to be declared to be an undesirable inhabitant of or visitor to the territory under the provisions of section 8(f);

has been detained under the provisions of subsection (1), and the Minister considers that further time is required for the completion of the enquiries referred to under that subsection, the Minister may by order under his hand direct that the person so detained shall be detained for a further period or periods, not exceeding fourteen days at a time.”;

- (b) by renumbering the existing subsections (2), (3), (4) and (5) as subsections (4), (5), (6) and (7) respectively;
- (c) in subsection (4) by the insertion after “unless” of “with the consent of the Minister”.

**Amendment of Section 12 of Law No. 19 of 1966**

4. Section 12 of the principal law is amended in subsection (6) by the deletion of “unless the appeal is directed solely to the identity of the person affected by the declaration”.

**Amendment of Section 13 of Law No. 19 of 1966**

5. Section 13 of the principal law is amended by the addition of the following subsection —

“ (3) Where under the provisions of section 12(1) notice has been given to any person that he is a prohibited immigrant and the Minister is at any time satisfied that the grounds therefore no longer exist he may give notice to the person concerned that he is not a prohibited immigrant and, in such event, the notice given under section 12(1) shall be deemed to have been withdrawn.”.

**Amendment of Section 14 of Law No. 19 of 1966**

6. Section 14 of the principal law is amended —

- (a) in subsection (1) by the insertion after “dismissed,” of “or where no appeal lies by reason of the provisions of section 12(6),”;

- (b) in subsection (2) by the deletion of "contravening any of the provisions of this Law" and the substitution of "committing any offence".

**Amendment of Section 15 of Law No. 19 of 1966**

7. Section 15 of the principal law is amended by the deletion of "being" and the substitution of "who is liable to be".

**Amendment of Section 28 of Law No. 19 of 1966**

8. The principal law is amended by the deletion of subsection (3) of section 28 and the substitution of —

" (3) Any order, warrant, permit, certificate or other document which may be issued under this Law shall be good and effectual if signed by any immigration officer or any officer in the public service of Botswana authorised by the Minister by notice in the *Gazette* so to sign, and when so signed shall be accepted for all purposes as having been issued in accordance with the provisions of this Law."

**Amendment of Schedule of Law No. 19 of 1966**

9. (1) The Schedule of the principal law is amended in paragraph 3 by the insertion after "34" of "or of any law repealed by such law".

- (2) The provisions of this section shall be deemed to have come into operation on the 30th September, 1966.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk to the National Assembly.

1. The first part of the document is a list of the names of the persons who have been appointed to the various positions of the Board of Directors of the Corporation.

2. The second part of the document is a list of the names of the persons who have been appointed to the various positions of the Board of Directors of the Corporation.

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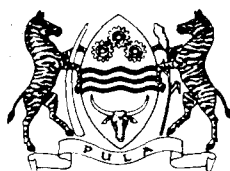
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B.61

## THE INCOME TAX (AMENDMENT) ACT, 1967

No. 20



of 1967

### AN ACT TO AMEND INCOME TAX (CONSOLIDATION) PROCLAMATION, 1959

Date of Assent : 14th September, 1967.

Date of Commencement : 15th September, 1967.

ENACTED by the Parliament of Botswana.

#### Short Title and Application

1. This Act may be cited as the Income Tax (Amendment) Act, 1967, and shall be deemed to have come into operation in respect of the year of assessment ended the 30th June, 1967.

#### Amendment of Section 13 of Proclamation No. 81 of 1959

2. Section 13 of the Income Tax (Consolidation) Proclamation, 1959 (hereinafter referred to as the principal law) is amended in subsection (1) by the deletion of paragraphs (c), (d) and ((dd)) and the substitution of —

“(c) such sum as the Collector may think just and reasonable as representing the amount by which the value of any industrial buildings, machinery, implements, utensils and articles used by the taxpayer for the purposes of his trade has been diminished by reason of wear and tear during the year of assessment :

Provided that —

- (i) where a deduction has been allowed under the provisions of paragraph (b), the Collector shall take into consideration the sum allowed under that paragraph in determining the sum to be allowed under this paragraph ;
- (ii) no allowance shall be made for the depreciation of buildings other than buildings of the nature described in this paragraph, and no allowance shall be made for the depreciation of structures or works of a permanent nature ;

## B.62

(iii) the value of any machinery or plant used by the taxpayer for the purposes of his trade shall, for the purposes of this paragraph, be deemed to be reduced by the amount of any allowance made under paragraphs (d) or (da) but shall not be deemed to be reduced by any allowance made under paragraph (db);

(d) an allowance to be known as a new machinery initial allowance, which shall be made in respect of new or unused machinery or plant brought into use by the taxpayer for the purposes of his trade during the year of assessment and used directly in the process of manufacture, and shall be equal to 20 *per centum* of the cost to him of such machinery or plant:

Provided that any allowance made under this paragraph shall be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);

(da) an allowance to be known as the industrial buildings initial allowance, which shall be given in respect of new industrial buildings or improvements to industrial buildings brought into use by the taxpayer for the purposes of his trade during the year of assessment, and shall be equal to 10 *per centum* of the cost to him of such buildings or improvements:

Provided that any allowance made under this paragraph shall be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);

(db) an allowance to be known as a new machinery investment allowance, which shall be given in respect of new or unused machinery or plant brought into use by the taxpayer during the year of assessment and used directly in the process of manufacture, and shall be equal to 25 *per centum* of the cost to him of such machinery or plant:

Provided that any allowance made under this paragraph shall not be taken into consideration in calculating amounts recovered or recouped for the purposes of subsection (3);”.

### **Amendment of Section 24 of Proclamation No. 81 of 1959**

3. Section 24 of the principal law is amended —

(a) by the deletion of subsection (1) and the substitution of —

“(1) Where the Collector is satisfied that, in respect of any period for which the accounts of a private company incorporated or registered under any law in force in Botswana have been made up, the amounts distributed as dividends prior to the end of the twelve months after the date to which such accounts have been made up are less than the total of any investment income plus 50 *per centum* of the earned income of the company ascertained in accordance with the provisions of this Proclamation for that period, he may, after taking into account losses previously incurred, by notice in writing to the public officer of the company,

order that the undistributed portion of such total of any investment income plus 50 *per centum* of the earned income of the company for that period shall be deemed to have been distributed as dividends amongst the shareholders as at the end of the sixth month after the date to which such accounts have been made up and thereupon the proportionate share thereof of each shareholder shall be included in the taxable income of such shareholder for the purposes of this Proclamation:

Provided that —

- (a) where the Collector is satisfied that in consequence of drought, flood or other similar unforeseen circumstances abnormal book debts have been reasonably accumulated, he may extend the abovementioned period of six months for such period as he may consider necessary to enable the company to reduce its book debts to a normal figure having regard to the interest of the community and the nature of the business of the company;
  - (b) where the company has agreed in writing with the Collector to the expenditure by a date fixed in the agreement of a sum to be invested in the development of industry, commerce and agriculture, and where such expenditure has been approved by the Minister for the time being responsible for industry, commerce or agriculture, as the case may be, the Collector may deem such expenditure to be a distribution of dividends for the purposes of this section and such sum shall not be included in the taxable income of the shareholder.”.
- (b) by the renumbering of subsection (10) as subsection (6).

#### **Amendment of Section 31 of Proclamation No. 81 of 1959**

4. Section 31 of the principal law is amended by the deletion of paragraph (a) of subsection (1) and the substitution of —

“(a) The Collector shall annually give public notice that all persons liable to taxation under the provisions of this Proclamation, whether personally or in a representative capacity, are required to furnish within thirty days after the date of such notice, returns for the assessment of tax:

Provided that any person who is prevented by absence, sickness or other reasonable cause from furnishing any such return may, within the time prescribed in this subsection or within any extension of time allowed by the Collector, apply to the Collector for an extension or further extensions, within which to make any such return and the Collector may allow such extension or further extension or further extension as the case may be, not exceeding 30 days, as may seem to him just.

- (aa) Every application made in terms of the proviso to paragraph (a) shall be accompanied by a fee of R2.”.

B.64

**Amendment of Section 51 of Proclamation No. 81 of 1959**

5. The principal law is amended in section 51 by the deletion of paragraph (e) and the substitution of —

“(e) any company which makes default in appointing a public officer or appointing a place for the service or delivery of notices in accordance with this Proclamation, or in keeping the office of a public officer constantly filled, or in maintaining a place for the service or delivery of notices, or which fails to notify to the Collector any change of public officer or of the place for the service or delivery of notices, shall be liable to pay an amount of R2.00 for every day during which the default continues and this amount shall be charged as tax payable by the company”.

**Addition of Section 71 to Proclamation No. 81 of 1959**

6. The principal law is amended by the addition of the following section —

**“Registration of Employers**

71. (1) Every person who is an employer shall apply to the Collector, in such form as the Collector may prescribe, for registration as an employer —

(a) in the case of a person who is an employer on the 1st November, 1967, not later than the 13th November, 1967; and

(b) in the case of a person who becomes an employer after the 1st November, 1967, within fourteen days of becoming an employer;

or in either such case within such further period as the Collector may approve.

(2) Every person who has applied for registration under subsection (1) shall, within fourteen days after changing his address or ceasing to be an employer, notify the Collector in writing of his new address or of the fact of his having ceased to be an employer, as the case may be.

(3) Any person who fails or neglects to apply to the Collector for registration as an employer as required by subsection (1), or having so applied fails or neglects to notify the Collector of any change of address or the fact of his having ceased to be an employer as required by subsection (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding R400 or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

(4) For the purposes of this section “employer” means any authority or person (including any person acting in a fiduciary capacity or in his capacity as trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, provident fund, retirement annuity or any other fund) who pays or is liable to pay to any person other than a company any amount by way of remuneration, and any company.”.

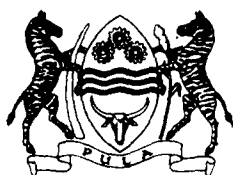
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk to the National Assembly.

B.65

**THE BOTSWANA HONOURS ACT, 1967**

No. 21



of 1967

**AN ACT TO PROVIDE FOR THE AWARD OF HONOURS AND OTHER DISTINCTIONS BY THE PRESIDENT**

Date of Assent : 14th September, 1967.

Date of Commencement : 15th September, 1967.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Botswana Honours Act, 1967.

**Interpretation**

2. In this Act, unless the context otherwise requires —

“honour” means an honour, order, decoration, insignia, badge, medal or distinction and, except in the case of a foreign or Commonwealth honour, means an honour prescribed in the Schedule ;

“unauthorised person” means any person other than the person to whom an honour has been awarded under this Act, or his widow.

**Award of Honours**

3. Honours shall be awarded by the President on such occasions, and to such persons, as he may determine.

## **B.66**

### **Regulations**

4. The President may make regulations —

- (a) amending the Schedule by the addition thereto, or the exclusion therefrom, of any honour, or by changing the description of any honour or the circumstances in which it may be awarded;
- (b) prescribing the specifications or nature of any medal ribbon or other insignia of any honour;
- (c) prescribing the circumstances in which a citizen of Botswana may accept a foreign or Commonwealth honour;
- (d) prescribing the order of precedence of any honour (including a foreign or Commonwealth honour) and the occasions on which, and the manner in which, such honour, or any miniature or ribbon thereof may or shall be worn;
- (f) generally for the better carrying out of the objects and purposes of this Act.

### **Penalty for the Unauthorised Use of Honours**

5. Any unauthorized person who uses or wears any honour or a miniature or ribbon thereof or who uses or wears any medal, badge, emblem, ribbon or other article which might reasonably mistaken for an honour or the miniature or ribbon thereof shall be guilty of an offence and liable, on conviction, to a fine not exceeding R50.

### **SCHEDULE**

- 1. The Cross of Gallantry (C.G.), being an honour awarded for outstanding deeds of gallantry.
- 2. The *Naledi ya Botswana* (N.Y.B), being an honour awarded for outstanding service to the Republic of Botswana.
- 3. The Presidential Order of Meritorious Service (P.M.S.), being an honour awarded to any person for actions or services benefiting Botswana or any community or organization therein in any particular field or sphere and for any acts of courage or devotion to duty;
- 4. The Botswana Police Medal for Meritorious Service (B.P.M.), awarded to members of the police force of Botswana for service of an especially meritorious nature.
- 5. The Presidential Order of Honour (P.H.), being an honour awarded for efficient and devoted service to the Republic of Botswana.
- 6. The Botswana Police Long Service and Good Conduct Medal (B.P.L.S.G.C.M.), awarded for long service and good conduct in the police force of Botswana.

**B.67**

7. The Botswana Prison Service Medal (B.P.S.M.) awarded for long service and good conduct in the prison service of Botswana.
8. The Presidential Certificate of Honour (P.C.H.), being a certificate awarded for long and faithful service to Botswana.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk to the National Assembly.





B.69

**THE SUPPLEMENTARY APPROPRIATION (1966/67)  
ACT, 1967**

No. 22



of 1967

**AN ACT TO MAKE FURTHER PROVISION OUT OF THE PUBLIC FUNDS OF  
BOTSWANA TO MEET CERTAIN EXPENDITURE INCURRED DURING THE  
YEAR ENDING ON THE 31ST MARCH, 1967.**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana

**Short Title**

1. This Act may be cited as the Supplementary Appropriation (1966/67) Act, 1967.

**Public Funds Charged with a further sum of R3,512,441**

2. The public funds of Botswana are hereby charged with a further sum of R3,512,441 (three million five hundred and twelve thousand four hundred and forty one rand) to meet expenditure to be incurred during the financial year ending on the 31st March, 1967 in excess of the amount appropriated for the services of that year according to the particulars set forth in the schedule of this Act.

## B.70

## SCHEDULE

No.	Vote	Amount Appropriated	Excess Expenditure	Supplementary Expenditure
		R	R	R
1	Her Majesty's Commissioner	66,185	66,685	500
1A	Office of the President	—	206,149	206,149
2	Administration of Justice	55,779	57,205	1,426
4	Legislative Assembly	58,054	60,294	2,240
6	Attorney General	46,296	46,755	459
7	Public Service Commission	13,298	14,388	1,090
8	Audit	29,626	31,825	2,199
9	Ministry of Home Affairs	473,840	477,151	3,311
10	Broadcasting and Information Services	69,775	74,175	4,400
11	Police	849,124	1,487,895	638,771
12	Prisons	121,139	124,225	3,086
13	Ministry of Finance	1,588,518	1,635,309	46,791
17	Ministry of Agriculture	193,122	197,348	4,226
18	Agriculture	256,659	276,498	19,839
19	Veterinary	662,877	687,347	24,470
20	Ministry of Labour and Social Services	38,417	38,697	280
21	Education	426,132	429,314	3,182
22	Medical	594,439	606,762	12,323
23	Ministry of Local Government	447,126	454,538	7,412
24	Ministry of Mines, Commerce and Industry	170,662	185,626	14,964
25	Geological Survey	159,700	159,881	181
27	Ministry of Works and Communications	67,065	80,078	13,013
29	Posts and Telegraphs	506,374	553,630	47,256
30	Public Works Department	1,272,413	1,329,615	57,202
31	Appropriations	394,995	1,044,384	649,389
32	Famine Relief Measures	302,476	2,050,758	1,748,282
TOTAL		R 8,864,091	12,376,532	3,512,441

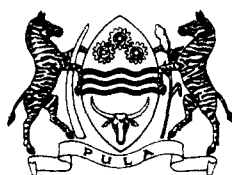
Passed by the National Assembly this day, the 25th August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.71

**THE FINAL APPROPRIATION (1965/66) ACT, 1967**

No. 23



of 1967

**AN ACT TO MAKE FURTHER PROVISION OUT OF THE PUBLIC FUNDS OF BOTSWANA TO MEET CERTAIN EXPENDITURE INCURRED DURING THE YEAR ENDED ON THE 31ST MARCH, 1966**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana

**Short Title**

1. This Act may be cited as the Final Appropriation (1965/66) Act, 1967.

**Public Funds Charged with a Further Sum of R1,490,001**

2. The public funds of Botswana are hereby charged with a further sum of R1,490,001 (one million, four hundred and ninety thousand and one rand) to meet expenditure incurred during the financial year ended on the 31st March, 1966, in excess of the amount appropriated for the services of that year, according to the particulars set forth in the Schedule of this Act.

B.72

SCHEDULE

EXPENDITURE FROM PUBLIC FUNDS

No.	Head	Amount Appropriated	Actual Expenditure	Excess Expenditure
8	Her Majesty's Commissioner	40,201	62,983	22,782
9	Legislative Assembly	42,992	57,639	14,647
10	House of Chiefs	6,976	8,970	1,994
11	Administration of Justice	36,950	44,124	7,174
12	Attorney-General	37,992	42,895	4,903
14	Overseas Aid Scheme	163,496	216,471	52,975
15	Minister of Home Affairs	185,255	216,071	30,816
16	Police	706,394	758,678	52,284
17	Prisons	83,459	114,485	31,026
18	Minister of Agriculture	168,949	175,638	6,689
20	Veterinary	582,991	664,817	81,826
21	Minister of Finance	663,187	815,933	152,746
23	Education	946,199	1,050,807	104,608
24	Medical	588,649	608,512	19,863
26	Minister of Commerce and Industries	51,540	56,702	5,162
27	Geological, Hydrological and Mineral Survey	139,882	149,525	9,643
28	Underground Water Develop- ment	128,271	135,149	6,878
29A	Department of Surveyor-General	42,754	43,437	683
30	Posts and Telegraphs	381,862	461,001	79,139
32	Public Works Recurrent	573,036	617,396	44,360
35	Famine Relief	—	759,803	759,803
Total		R5,571,035	7,061,036	1,490,001

Passed by the National Assembly this day, the 31st August, 1967.

G. T. MATENGE,  
Clerk of the National Assembly.

B.73

**THE EMPLOYMENT (AMENDMENT) ACT, 1967**

No. 24



of 1967

**AN ACT TO AMEND THE EMPLOYMENT LAW, 1963**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Employment (Amendment) Act, 1967.

**Amendment of Section 45 of Law No. 15 of 1963**

2. Section 45 of the Employment Law, 1963, is amended in paragraph (c) of subsection (1) of section 45 by the addition of the following proviso —

“Provided that the Minister may by direction under his hand waive the provisions of this paragraph where he is satisfied that —

- (i) in all the circumstances of the case it is not reasonably practicable for the employee to be medically examined in Botswana; and
- (ii) the employee will be medically examined before he commences work in accordance with his contract; and
- (iii) the employee if found unfit to work as a result of such examination will forthwith be repatriated to his place of recruitment in accordance with the provisions of section 40 ;”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



B.75

**THE TRIBAL TERRITORIES (AMENDMENT) ACT, 1967**

No. 25



of 1967

**AN ACT TO AMEND THE TRIBAL TERRITORIES PROCLAMATION**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana.

**Short Title:**

1. This Act may be cited as the Tribal Territories (Amendment) Act, 1967.

**Amendment of Section 2 (1) of Cap. 68.**

2. Section 2 (1) of the Tribal Territories Proclamation (Chapter 68) is amended by the deletion of "thence to a beacon on the Tuli-Macloutsie Road marking the westerly limit of the ten-mile radius round Fort Tuli; thence to the junction of the Tuli and Shashi Rivers; thence up the centre of the River Shashi to the spot where that" and by the substitution of "thence to a beacon on the Tuli Circle where the old Tuli-Macloutsie road intersects the Tuli Circle; thence northwards along the Tuli Circle to the beacon lettered "C" on diagram S.G. No. 28/65 of the Farm No. 1-NS; thence northwards in a straight line to the junction of the Tuli and Shashi Rivers being a point on the international boundary between Botswana and Rhodesia and lettered "a" on the said diagram; thence generally westwards along the said international boundary to the junction of the Shashi and Ramaquabane Rivers; thence continuing westwards and northwards up the middle of the Shashi River to the spot where the Shashi".

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

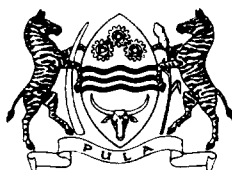




B.77

**THE WILLS (AMENDMENT) ACT, 1967**

No. 26



of 1967

**AN ACT TO AMEND THE WILLS PROCLAMATION**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Wills (Amendment) Act, 1967.

**Amendment of Chapter 87.**

2. The Wills Proclamation (Chapter 87) (hereinafter referred to as the principal law) is amended by inserting prior to section 2 —

**“ PART I**

**WILLS EXECUTED IN BOTSWANA ”**

**Replacement of Section 8 of Chapter 87.**

3. The principal law is hereby amended by the repeal of section 8 and the substitution of —

**“ PART II**

**WILLS EXECUTED OUTSIDE BOTSWANA**

**Interpretation.**

8. (1) In this Part, unless the context otherwise requires —

“internal law” in relation to any territory or state means the law which would apply in a case where no question of the law in force in any other territory or state arose ;

“state” means a territory or group of territories having its own law of nationality.

## **B.78**

(2) In determining for the purposes of this Part whether or not the execution of a will conformed to a particular law, regard shall be had to the formal requirements of that law at the time of execution, but this shall not prevent account being taken of an alteration of law affecting wills executed at the time if the alteration enables the will to be treated as properly executed.

### **Application.**

9. This Part shall not apply to a will of a testator who died before the date of promulgation and shall apply to a will of a testator who dies after that date whether the will was executed before or after that date.

### **General Rule as to Validity.**

10. A will shall be treated as properly executed if its execution conformed to the internal law in force in the territory where it was executed, or in the territory where, at the time of its execution or of the testator's death, he was domiciled or had his habitual residence, or in a state of which, at either of those times, he was a national.

### **Additional Rules.**

11. Without prejudice to the immediately preceding section, the following shall be treated as properly executed —

- (a) a will executed on board a vessel or aircraft of any description, if the execution of the will conformed to the internal law in force in the territory with which, having regard to its registration, if any, and other relevant circumstances, the vessel or aircraft may be taken to have been most closely connected;
- (b) a will so far as it disposes of immovable property, if its execution conformed to the internal law in force in the territory where the property was situated;
- (c) a will so far as it revokes a will which under this Part would be treated as properly executed or revokes a provision which under this Part would be treated as comprised in a properly executed will, if the execution of the later will conformed to any law by reference to which the revoked will or provision would be so treated.

### **Short Title.**

12. This Proclamation may be cited as the Wills Proclamation."

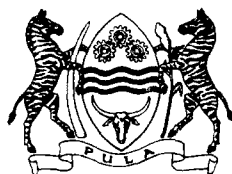
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.79

**THE IMMOVABLE PROPERTY (REMOVAL OF RESTRICTIONS) ACT, 1967**

No. 27



of 1967

**AN ACT TO PROVIDE FOR REMOVAL OF RESTRICTIVE COVENANTS AND CONDITIONS AFFECTING THE USE OF IMMOVABLE PROPERTY AND TO MAKE PROVISION INCIDENTAL THERETO**

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Immoveable Property (Removal of Restrictions) Act, 1967.

**Alteration, Suspension or Removal of Conditions of Title**

2. (1) The owner of any immovable property or any person authorized to act on his behalf in the matter may apply to the Registrar of Deeds for the alteration, suspension, or removal of any condition or covenant registered against the title affecting the use or occupation of the property.

(2) Such application shall —

(a) be in writing;

## B.80

- (b) contain the name and address of the applicant, and, if he is not the owner, details of the authority by virtue of which he is entitled to make the application;
- (c) be accompanied by the title deed of the property;
- (d) be accompanied by proof to the satisfaction of the Registrar of Deeds that notice of the application and of the proposed alteration, suspension, or removal has been given to the owners of the properties abutting on that to which the application relates.

(3) On receipt of an application in terms of subsection (1) the Registrar of Deeds shall —

- (a) at the expense of the applicant publish a notice in the *Gazette* setting out the full particulars of the proposed alteration, suspension, or removal and calling upon any person who has any objection to lodge his objection in writing with him not later than a specified date, which shall be at least thirty days from the date of the publication in the *Gazette*;
- (b) transmit a copy of the notice to —
  - (i) the Town and Country Planning Board established under section 4 of the Town and Country Planning Proclamation, 1961;
  - (ii) the local authority within whose area the property is situated;
  - (iii) the township owner, if any, concerned;
  - (iv) the Surveyor-General;
  - (v) any other person who, in the opinion of Registrar of Deeds, may have an interest in the matter.

(4) A copy of any objection which is received timeously by the Registrar of Deeds shall be served by him on the applicant.

(5) If no objection is received within the time specified in the notice, or if the applicant is willing to modify his application to meet the objection, the Registrar of Deeds shall as soon as possible consider the application and shall recommend to the Minister whether the application should be refused or granted and, if granted, whether or not the approval should be conditional;

Provided that any modification of an application which is capable of prejudicing the interests of any person whose views in the matter have not been communicated to the Registrar of Deeds shall be re-advertised in the manner prescribed in subsection (3) and the matter shall proceed thereafter as if the application as modified were a new application.

(6) In any case where the provisions of subsection (5) are not applicable or in any case where the terms of any proposed modification to an application are in dispute the Registrar of Deeds shall refer the matter to the High Court for decision.

**Powers and Duties of the Minister**

3. (1) On receipt of the recommendations of the Registrar of Deeds in terms of section 2(5) the Minister may —

- (a) refuse the application; or
- (b) by order in the *Gazette* alter, suspend or remove any condition or covenant either permanently or for such period as may be specified by him or subject to such conditions as may be specified in that order.

(2) Any person who is dissatisfied with a decision of the Minister under this section may appeal to the High Court within fourteen days of the notification to him of the Minister's refusal of the application or of the publication of the Minister's order in the *Gazette*.

(3) If no appeal is lodged, or if an appeal is abandoned, the Minister shall, where he has made any order, transmit a copy of his order and the title deed to the Registrar of Deeds who shall endorse the title deed and the registry duplicate thereof accordingly.

**Powers and Duties of the High Court**

4. (1) The High Court shall have power where a matter is referred to it in terms of section 2(6) to —

- (a) refuse the application; or
- (b) alter, suspend or remove any condition or covenant either permanently or for such period as may be specified by it or subject to such conditions as may be specified in that order;

and may further, where any objector alleges that he possesses an interest or right in law in or to the property in respect of which the application is made and that the proposed alteration, suspension, or removal will cause him loss or damage, summarily enquire into the matter and, where any application is granted in whole or in part, make such award in the matter, including the award of compensation to the objector by the applicant, as it thinks just.

(2) Where appeal is made to the High Court under section 3(2), the High Court may vary, set aside, amend, or confirm the order or decision of the Minister.

(3) For the purpose of any proceedings before the High Court under this Act, the applicant, any objector, and the Registrar of Deeds shall be deemed to be parties:

Provided that no order as to costs may be made against the Registrar of Deeds.

(4) Where the court makes any order which has the effect of altering any condition or covenant or of confirming or amending or varying an order of the Minister the Registrar of the High Court shall transmit a copy of the order of the

## **B.82**

court and the title deed together with the Minister's order, if any, to the Registrar of Deeds who shall endorse the title deed and the registry duplicate thereof accordingly.

### **Changes of Form of Title by Mutual Consent**

5. As often as by mutual consent of the owner of any land and the President it becomes necessary to make or effect any change in the form of the title deed to any land held under grant from the State, such change may be effected by the surrender by the owner of the then existing title deeds and the issue of a new title deed to such owner to take the place of such as is surrendered:

Provided that if such land has been hypothecated or if any real rights in such land (other than the right of ownership) and registered against the title subsist, the written consent of the holders of the mortgage bonds and of the holders of the aforesaid rights shall be produced for the substitution of the new form of grant in the place of that surrendered.

### **Cancellation of Title Deeds Upon Surrender of Land**

6. As often as the owner of any land held under grant from the State consents and agrees to surrender or abandon such land, either in exchange for other land, or for any other cause, then, upon delivery up of the title deeds thereof, the President may authorize the Registrar of Deeds to cancel such deeds.

### **Entries in Books of Registrar of Deeds**

7. (1) Upon any change being made in the form of any title by consent, as provided for by section 5, or upon any land being surrendered or abandoned in the manner provided in section 6 all necessary entries in the books of the Surveyor-General and Registrar of Deeds respectively, shall be made.

(2) The Registrar of Deeds shall make the usual necessary note or entry of the mortgage or right upon the title of any land, which is mortgaged or subject to any registrable real right (other than ownership), issued in pursuance of the provisions of section 5, and thereupon the right of hypothecation of the bond holder and any such real right shall subsist in respect of such land.

(3) Upon any land being surrendered or abandoned as aforesaid, then, upon the necessary record being made in the books of the Registrar of Deeds, it shall revert to and become re-invested in the State, as if it had not been previously granted or alienated.

### **Certain Prohibitions and Restrictions to be Void**

8. (1) Any provision in any deed, will, codicil, covenant or agreement, whether registered against the title deeds of any property or not, which purports to prohibit or restrict the occupation or use of any immovable property by reference to colour, race or ethnic or national origins, or which has that effect, shall be void.

(2) Any provision in any deed, will, codicil, covenant or agreement, whether registered against the title deeds of any property or not, which purports to restrict the disposal by sale, lease, assignment or otherwise or any interest in immovable property to any person by reference to his colour, race, or ethnic or national origins, or which has that effect, shall be void.

(3) The invalidity in terms of this section of any provision in any deed, will, codicil, covenant or agreement shall not affect the validity of the remaining parts of the deed, will, codicil, covenant or agreement if, in the circumstances, the remainder is reasonably capable of enforcement; but shall operate in respect of all deeds, wills, codicils, covenants or agreements executed or entered into before or after the date of the coming into operation of this Act insofar as they relate to immovable property situated in Botswana.

#### **Saving of the Common Law Rights of Applicant**

9. Nothing in this Act shall affect in any way the jurisdiction which any court may have under any law, including the common law, to alter, suspend, remove, or declare void or unenforceable any conditions or covenant registered against the title of any immovable property.

#### **Rules of Court**

10. The Chief Justice may make rules of court for the regulation of proceedings and appeals in the High Court under this Act and for the charging of fees payable in connexion therewith.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

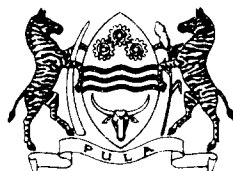




B.85

**THE MUSEUM AND ART GALLERY ACT, 1967**

No. 28



of 1967

**AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A NATIONAL MUSEUM AND ART GALLERY**

Date of Assent: 28th September, 1967.

Date of Commencement: 29th September, 1967.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the National Museum and Art Gallery Act, 1967.

**Interpretation**

2. In this Act unless the context otherwise requires —

“Board” means the Board established under section 5;

“fund” means the fund established under section 9;

“museum” includes a craft village;

“National Museum and Art Gallery” means the National Museum and Art Gallery established under section 3.

**Establishment of a National Museum and Art Gallery**

3. The President, after consultation with the Board, may establish such museum and art gallery facilities, to be called the National Museum and Art Gallery, as in his opinion are desirable in order to further the provision of an efficient museum and art gallery service in Botswana.

**Administration of the National Museum and Art Gallery**

4. Subject to the provisions of this Act the administration of the National Museum and Art Gallery shall be vested in the Minister who shall perform his functions under this Act, other than under section 5, in consultation with the Board.

**Establishment of National Museum and Art Gallery Board**

5. (1) For the purposes of this Act there shall be established a Board to be styled the National Museum and Art Gallery Board

(2) The Board shall consist of a Chairman and not more than six other members nominated by the Minister, together with such other members as may be co-opted by the Board under subsection (3).

(3) The Board may, with the approval of the Minister, co-opt as members not more than three persons with such expert knowledge or experience as may be required by the Board in the discharge of its functions.

(4) The period of office of a member of the Board shall be —

(a) in the case of the Chairman or any member nominated under subsection (2), three years from the date of his appointment;

(b) in the case of a member co-opted under the provisions of subsection (3), the period, not being a period in excess of one year, for which he has been co-opted.

(5) The Chairman and any member of the Board may resign from the Board at any time by letter addressed to the Minister; and the Minister may at any time revoke any nomination which he has made.

(6) Any member of the Board who has not, on the 31st December in any year, attended at least one-third of the meetings of the Board during the preceding twelve months or during his tenure of office in such months, shall be considered to have vacated his seat on the Board, unless he has been absent owing to ill-health or with leave of the Minister.

**Meetings of the Board**

6. (1) The Board shall meet at such times as may be necessary or expedient for transacting its business.

(2) The Chairman may at any time summon a meeting of the Board and on the requisition of the Minister or any three members he shall summon a meeting; and such requisition shall state the object for which the meeting is required to be summoned.

(3) The views or decisions of the Board may be taken at meetings or, in cases in which the Chairman shall so direct, by the recording of the opinions of members on papers circulated among them.

(4) The Chairman may direct that papers shall not be circulated in accordance with the provisions of subsection (3) to any member who through interest, illness, absence from Botswana or otherwise is, in the opinion of the Chairman, incapacitated from voting on such papers.

(5) The quorum of the Board at any meeting or for the purpose of voting on papers circulated in accordance with the provisions of subsection (3) shall be four.

(6) The decisions of the Board shall be by the majority of votes; in any case in which the voting is equal the Chairman shall have a second or casting vote.

#### **Functions of the Board**

7. (1) The functions of the Board shall be —

- (a) to advise the President and Minister in the exercise of the functions under this Act;
- (b) to administer as trustees the fund and, for that purpose it shall, if authorised thereto by the Minister, have power to hypothecate, alienate or otherwise dispose of the assets of the fund and acquire property, movable or immovable, for the purposes of the National Museum and Art Gallery;
- (c) to undertake such administrative functions in connexion with the National Museum and Art Gallery as the Minister may from time to time require it to undertake.

(2) The Board may in their capacity as trustees under the provisions of subsection 7 (1) (b) with the approval of the Minister, and subject to such terms and conditions as he may fix borrow moneys whether on the security of the assets of the fund or otherwise.

(3) The Board may, for the purpose of furthering the provision of an efficient museum and art gallery service in Botswana enter into mutual arrangements with other museums or art galleries within or without Botswana.

#### **General Duty of Minister**

8. It shall be the duty of the Minister acting in consultation with the Board and within the limits of the means available to him to provide a comprehensive and efficient museum and art gallery service for all persons desiring to make use thereof, and for that purpose to provide, and maintain such buildings and equipment and do such other things, as may be requisite.

#### **Establishment of National Museum and Art Gallery Fund**

9. (1) There is hereby established a fund, to be termed the National Museum and Art Gallery Fund, which shall be vested in the Board in trust, on behalf of the people of Botswana and which shall be administered by the Board in accor-

## **B.88**

dance with the provisions of section 7.

(2) The fund shall consist of —

- (a) such property, movable or immovable, as may be acquired by the Board for the purposes of the National Museum and Art Gallery;
- (b) such moneys as may be appropriated by law for the purposes of the National Museum and Art Gallery;
- (c) any moneys which may accrue to it by virtue of any regulations made under the provisions of section 11 or by reason of any charge reasonably made for services performed by the National Museum and Art Gallery;
- (d) subscriptions, gifts, grants and bequests derived from any public or private source:

Provided that the Board shall, on the directions of the Minister, decline to accept any gift, grant or bequest which is made subject to conditions which, in the opinion of the Minister are inconsistent with the provisions of this Act or the general spirit in which it is administered.

(3) Where property movable or immovable is transferred to the Board as trustees of the fund the Minister for the time being responsible for Finance may direct that all moneys owing by the Board by way of duty in respect of the transfer shall be waived.

(4) The assets of the fund shall not be liable to attachment or execution in respect of any obligation incurred by the Board or any member thereof unless such obligation is incurred under and in accordance with the provisions of this Act nor shall such assets form part of the estate of any member of the Board to be administered in case of his death, insolvency or the assignment of his estate.

(5) The moneys of the fund shall be deemed to be public moneys for the purposes of the Finance and Audit Law, 1965 (Law No. 15 of 1965).

### **Reports**

10. (1) As soon as possible after the 1st January in every year the Board shall furnish to the Minister report upon its work during the preceding year and upon any other matters connected with museums or art galleries which it may desire to bring to his attention.

(2) The Minister shall lay such report before Parliament within fourteen days of its receipt by him.

### **Regulations**

11. (1) The Minister may make regulations either generally or in relation to any particular museum or art gallery facilities established under this Act —

- (a) providing for the payment out of the National Museum and Art Gallery Fund of fees and allowances to members of the Board;
- (b) for the control and management of any museum or art gallery and the use of its facilities including the payment of charges and fees in respect thereof;
- (c) the establishment, functions and duties of museum or art gallery committees;
- (d) safeguarding the contents of any museum or art gallery;
- (e) generally for the better carrying out of the provisions of this Act.

(2) Any regulation made under the provisions of subsection (1) may provide for, in the event of its contravention, the imposition of a fine not exceeding R100, or in default of payment, imprisonment for a period not exceeding three months or for both such fine and such imprisonment.

Passed by the National Assembly this day, the 31st August, 1967.

**G.T. MATENGE,**  
Clerk of the National Assembly.

1. The first part of the document is a list of the names of the members of the committee who have been appointed to study the problem of the

B.91

**THE NATIONAL LIBRARY SERVICE ACT, 1967**

No. 29



of 1967

**AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A NATIONAL LIBRARY SERVICE**

Date of Assent : 28th September, 1967.

Date of Commencement : 29th September, 1967.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the National Library Service Act. 1967.

**Interpretation**

2. In this Act unless the context otherwise requires —

“Board” means the Board established under section 5 ;

“book” includes any part or division of a book, pamphlet, newspaper, periodical, magazine, review, gazette, sheet of letterpress, sheet of music, map, plan, chart or table separately printed, but does not include any second or

## **B.92**

subsequent edition of a book where the first or earlier edition has been delivered in accordance with the provisions of section 10, (unless such edition contains additions or alterations either to the letterpress or in the maps, prints or other illustrative materials belonging thereto), or any book which will not be made available to the public at large or printed forms, industrial advertisements, advertisers handbills, price lists or stationery;

“Director” means the Director of Library Services;

“National Library Service” means the National Library Service established under section 3;

“printed” means produced by any process of reproduction;

“published” means issued for distribution, by sale or otherwise, to the public.

### **Establishment of a National Library Service**

3. The President, after consultation with the Board, may establish such library facilities, to be called the National Library Service, as in his opinion are desirable in order to further the provision of an efficient library service throughout Botswana.

### **Administration of the National Library Service**

4. The administration of the National Library Service shall be vested in the Minister who shall perform his functions under this Act, other than under section 5, in consultation with the Board.

### **Establishment of a National Library Service Board**

5. (1) For the purposes of this Act there shall be established a Board to be styled the National Library Service Board.

(2) The Board shall consist of a Chairman and not more than six other members nominated by the Minister, together with such other members as may be co-opted by the Board under subsection (3).

(3) The Board may, with the approval of the Minister, co-opt as members not more than three persons with such expert knowledge or experience as may be required by the Board in the discharge of its functions.

(4) The period of office of a member of the Board shall be —

(a) in the case of the Chairman or any member nominated under subsection (2), two years from the date of his appointment;

(b) in the case of a member co-opted under the provisions of subsection (3), the period, not being a period in excess of one year, for which he has been co-opted.

(5) The Chairman and any member of the Board may resign from the Board at any time by letter addressed to the Minister; and the Minister may at any time



revoke any nomination which he has made.

(6) Any member of the Board who has not, on the 31st December in any year, attended at least one-third of the meetings of the Board during the preceding twelve months or during his tenure of office in such months, shall be considered to have vacated his seat on the Board, unless he has been absent owing to ill-health or with leave of the Minister.

(7) The Director or such person as may be designated by him shall be secretary to the Board.

#### **Meetings of the Board**

6. (1) The Board shall meet at such times as may be necessary or expedient for transacting its business.

(2) The Chairman may at any time summon a meeting of the Board and on the requisition of the Minister or any three members he shall summon a meeting; any such requisition shall state the object for which the meeting is required to be summoned.

(3) The views or decisions of the Board may be taken at meetings or, in cases in which the Chairman shall so direct, by the recording of the opinions of members on papers circulated among them.

(4) The Chairman may direct that papers shall not be circulated in accordance with the provisions of subsection (3) to any member who through interest, illness, absence from Botswana or otherwise is in the opinion of the Chairman incapacitated from voting on such papers.

(5) The quorum of the Board at any meeting or for the purpose of voting on papers circulated in accordance with the provisions subsection (3) shall be four.

(6) The decisions of the Board shall be by the majority of votes; in any case in which the voting is equal the Chairman shall have a second or casting vote.

#### **Functions of the Board**

7. (1) The functions of the Board shall be —

(a) to advise the President and Minister in the exercise of their functions under this Act;

(b) to undertake such administrative functions in connexion with the National Library Service as the Minister may from time to time require it to undertake.

(2) The Board may, for the purpose of furthering the provision of an efficient library service throughout Botswana, with the approval of the Minister, enter into mutual arrangements with authorities or organisations concerned with the provision of library or bibliographical services within or without Botswana.

## **B.94**

### **General Duty of Minister**

8. (1) It shall be the duty of the Minister acting in consultation with the Board and within the limit of the means available to him to provide a comprehensive and efficient library service for all persons desiring to make use thereof, and for that purpose to provide and maintain such buildings and equipment and do such other things, as may be requisite.

(2) In fulfilling his duty under subsection (1) the Minister shall in particular have regard to the desirability —

- (a) of securing, by the keeping of adequate stocks, by arrangement with libraries other than those administered by the National Library Service, and by other appropriate means, that facilities are available for the borrowing of, or reference to, books and other printed matter, and pictures, gramophone records and other materials, sufficient in number, range and quality to meet the general requirements of both adults and children; and
- (b) of encouraging both adults and children to make full use of the library facilities, and of providing advice as to its use and of making available such bibliographical and other information as may be required by persons using them; and
- (c) of securing full co-operation between persons engaged in supplying library facilities in Botswana.

### **Establishment of National Library Service Fund**

9. (1) There is hereby established a fund, to be termed the National Library Service Fund, the administration of which is vested in the Minister, and which shall be used by the Minister in the performance of his functions under this Act.

(2) The fund shall consist of —

- (a) such moneys as may be appropriated by law for the purposes of the National Library Service;
- (b) any moneys which may accrue to it by virtue of any regulations made under the provisions of section 11 or by reason of any charge reasonably made for services performed by the National Library Service;
- (c) gifts, grants and bequests derived from any public or private source:

Provided that the Minister may decline to accept any gift, grant or bequest which is made subject to conditions which, in the opinion of the Minister, are inconsistent with the provisions of this Act or the general spirit in which it is administered.

### **Deposit and Preservation of Copies of Books**

10. (1) The publisher of every book published in Botswana shall, within one month after the day on which such book is first delivered out of the press,

and notwithstanding any agreement to the contrary with any person, deliver at his own expense —

- (a) one copy of the book to the Librarian of the University of Botswana, Lesotho and Swaziland;
- (b) two copies of the book to the Chairman of the Board or to such person and place as the Board may direct.

(2) Every copy delivered under the provisions of this section shall be a copy of the whole book, with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best standard copies of the same are produced, and shall be bound, sewed or stitched together, and on the best standard paper on which the book is printed.

(3) The Minister may by order in the *Gazette* exempt from the provisions of this section any book or any class or description of books specified in the order either absolutely or subject to such conditions as may be specified in the order.

(4) Any publisher who fails to comply with the provisions of subsections (1) and (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rand. A conviction in terms of this subsection shall not discharge a publisher from his obligation to comply with the provisions of this section.

(5) The provisions of this section, other than of subsection (4), shall bind the State, and any publisher who is an officer in the public service.

### **Regulations**

11. (1) The Minister may make regulations either generally or in relation to any particular library facilities —

- (a) providing for the payment out of the National Library Service Fund of fees and allowances to members of the Board;
- (b) for the control and management of any library administered by the National Library Service and the use of its facilities including the payment of charges and fees in respect thereof;
- (c) the imposition and levying of fines where articles borrowed from any library administered by the National Library Service have not been returned within such time as may be prescribed, or have been lost or damaged;
- (d) the payment of deposits as security for the return, in good condition, of articles borrowed from any library administered by the National Library Service and the circumstances in which such deposits may be forfeited;
- (e) the establishment, functions and duties of library committees;
- (f) generally for the better carrying out of the provisions of this Act.

**B.96**

(2) Any fee, charge or fine made or imposed under the provisions of regulations made under subsection (1) may be recovered by set-off against any moneys held as deposit as security for articles borrowed from a library or may be recovered by proceedings brought in any court or competent jurisdiction; and, in any such proceedings, a certificate purporting to be signed by the Chairman of the Board shall be *prima facie* proof of the amount of money owing as of a fee, charge or fine made or imposed as aforesaid and of the identity of the debtor.

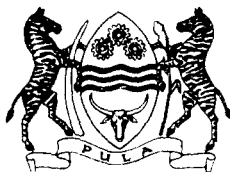
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.97

**THE APPLIED LAWS (REVISION) ACT, 1967**

No. 30



of 1967

**AN ACT TO REPEAL CERTAIN ORDERS IN COUNCIL IN FORCE IN  
BOTSWANA.**

Date of Assent : 28th September, 1967.

Date of Commencement : 29th September, 1967.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Applied Laws (Revision) Act, 1967

**Repeal of S.I. 1965/2168 and S.I. 1966/40 of the United Kingdom**

2. The Southern Rhodesia (Carriage of Petroleum) (Overseas Territories) Order 1965 and the Southern Rhodesia (Carriage of Petroleum) (Overseas Territories) Order 1966 are hereby repealed.

Passed by the National Assembly this day, the 31st August, 1967.

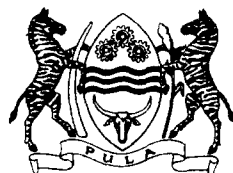
G.T. MATENGE,  
Clerk of the National Assembly.



B.99

**THE MINERAL RIGHTS IN TRIBAL TERRITORIES ACT, 1967**

No. 31



of 1967

**AN ACT TO PROVIDE FOR THE VESTING OF MINERAL RIGHTS IN TRIBAL TERRITORIES IN THE REPUBLIC OF BOTSWANA**

Date of Assent : 27th September, 1967.

Date of Commencement : 29th September, 1967.

ENACTED by the Parliament of Botswana

**Short Title**

1. This Act may be cited as the Mineral Rights in Tribal Territories Act, 1967.

**Vesting of Tribal Mineral Rights in the State**

2. (1) There shall be transferred to and vest in the Republic of Botswana all the right, title and interest of the —

- (a) Bakwena Tribe and the Chief thereof in or to minerals within the Bakwena Tribal Territory in accordance with the terms and conditions of the Agreement set out in the First Schedule;

**B.100**

- (b) Bamangwato Tribe and Tribal Authority in or to minerals within the Bamangwato Tribal Territory in accordance with the terms and conditions of the Agreement set out in the Second Schedule;
- (c) Bangwaketse Tribe and the Chief thereof in or to minerals within the Bangwaketse Tribal Territory in accordance with the terms and conditions of the Agreement set out in the Third Schedule;
- (d) Batawana Tribe and the Chief thereof in or to minerals within the Batawana Tribal Territory in accordance with the terms and conditions of the Agreement set out in the Fourth Schedule;
- (e) Barolong Tribe and the Chief thereof in or to minerals within the area known as the Barolong Farms in accordance with the terms and conditions of the Agreement set out in the Fifth Schedule;
- (f) Bakgatla Tribe and the Chief thereof in or to minerals within the Bakgatla Tribal Territory in accordance with the terms and conditions of the Agreement set out in the Sixth Schedule;
- (g) Bamalete Tribe and the Chief thereof in or to minerals within the Bamalete Tribal Territory in accordance with the terms and conditions of the Agreement set out in the Seventh Schedule.

(2) The provisions of the Agreements set out in the First to Seventh Schedules inclusive shall have the force of law.

**FIRST SCHEDULE**

**MEMORANDUM OF AGREEMENT between —**

HIS EXCELLENCY SIR SERETSE KHAMA, knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

NEALE MOLAODI SECHELE, Chief of the Bakwena Tribe, in his capacity as such and for and on behalf of the Bakwena Tribe, acting with the approval of the Kweneng District Council and after consultation with the Tribe in the customary manner in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the Pre-



sident on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the Bakwena Tribal Territory including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe or Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the Kweneng District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Bakwena Tribe for their pastoral, agricultural or domestic purposes.

**B.102**

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 14th day of July, 1967.

*Witnesses*

1. J.G. HASKINS .....

SERETSE KHAMA

President

2. E.M.K. KGABO .....

*Witnesses*

1. N.B. KGOSIENCHO .....

N.M. SECHELE II

Chief

2. S. MATLHABAPHIRI .....

**SECOND SCHEDULE**

**MEMORANDUM OF AGREEMENT** between —

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

LEAPEETSWE TSHEKEDI KHAMA, Tribal Authority for the Bamangwato Tribe, in his capacity as such and for and on behalf of the Bamangwato Tribe, acting with the approval of the Central District Council and after consultation with the Tribe in the customary manner in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the Pre-

sident on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Tribal Authority;

AND WHEREAS the parties wish to record their desire as aforesaid;

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Tribal Authority in or to minerals within the Bamangwato Tribal Territory including all mineral rights heretofore vested in the Tribe and Tribal Authority and all right to any moneys accruing to the Tribe or Tribal Authority under any Crown or State Grant of mineral rights.

2. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Tribal Authority in and to an agreement made on the 2nd day of June, 1959, between the African Authority for the Bamangwato Tribe and Rhodesian Selection Trust Exploration Limited and all the right, title and interest of the Tribe and Tribal Authority in a Deed of Concession made on the 26th day of November, 1959, between the African Authority of the Bamangwato Tribe and Bamangwato Concessions Limited.

3. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clauses 1 and 2 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing mineral concession or Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the concessionaire or grantee has been conceded or granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the Central District Council.

4. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

5. For the purposes of this Agreement —

“mineral rights” means right to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

(i) soil or subsoil, sand, sandstone or gravel;

(ii) stone suitable for building, road making, ballasting railways or similar purposes;

**B.104**

(iii) salt or clay reasonably required by members of the Bamangwato Tribe for their pastoral, agricultural or domestic purposes.

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 4th day of April, 1967.

*Witnesses*

1. J.G. HASKINS .....

SERETSE KHAMA

.....  
President

2. E.M.K. KGABO .....

*Witnesses*

1. B.G. RATSHOSA .....

LEAPEETSWE

.....  
Tribal Authority

2. J.K. PHIRI .....

**THIRD SCHEDULE**

**MEMORANDUM OF AGREEMENT between —**

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

BATHOEN GASITSWE Chief of the Bangwaketse Tribe, in his capacity as such and for and on behalf of the Bangwaketse Tribe, acting with the approval of the Bangwaketse District Council and after consultation with the Tribe in the customary manner and in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the President of behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the Bangwaketse Tribal Territory including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe and Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the Bangwaketse District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Bangwaketse Tribe for their pastoral, agricultural or domestic purposes.

**B.106**

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 17th day of July, 1967.

*Witnesses*

1. Q.K.J. MASIRE .....

..... SERETSE KHAMA  
President

2. E.M.K. KGABO .....

*Witnesses*

1. M.S. GASEITSIWE .....

..... BATHOEN II  
Chief

2. K.M. KGOPO .....

#### FOURTH SCHEDULE

MEMORANDUM OF AGREEMENT between —

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

LETSHOLATHEBE MOREMI III, Chief of the Batawana Tribe, in his capacity as such and for and on behalf of the Batawana Tribe, acting with the approval of the North West District Council and after consultation with the Tribe in the customary manner and in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the President on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the Batawana Tribal Territory including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe and Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the North West District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Batawana Tribe for their pastoral, agricultural or domestic purposes.

**B.108**

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 17th day of July, 1967.

*Witnesses*

1. J.G. HASKINS .....

SERETSE KHAMA

President

2. E.M.K. KGABO .....

*Witnesses*

1. M. MOGALAKWE .....

L. MOREMI III

Chief

2. K. MONWELA .....

#### FIFTH SCHEDULE

MEMORANDUM OF AGREEMENT between —

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

KEBALEPILE MONTSHIWA, Chief of the Barolong Tribe, in his capacity as such and for and on behalf of the Barolong Tribe, acting with the approval of the Bangwaketse District Council and after consultation with the Tribe in customary manner and in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within the area known as the Barolong Farms and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the Presi-



dent on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the area known as the Barolong Farms including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe and Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the Bangwaketse District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Barolong Tribe for their pastoral, agricultural or domestic purposes.

**B. 110**

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 18th day of July, 1967.

*Witnesses*

1. J.G. HASKINS .....

..... SERETSE KHAMA  
President

2. E.M.K. KGABO .....

*Witnesses*

1. N.M. KGABI .....

..... K.L. MONTSHIWA  
Chief

2. T.T. SELEKA .....

#### SIXTH SCHEDULE

MEMORANDUM OF AGREEMENT between —

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana;

and

LINCHWE KGAFELA II, Chief of the Bakgatla Tribe, in his capacity as such and for and on behalf of the Bakgatla Tribe, acting with the approval of the Kgatleng District Council and after consultation with the Tribe in the customary manner and in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the President on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the Bakgatla Tribal Territory including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe and Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the Kgatleng District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Bakgatla Tribe for their pastoral, agricultural or domestic purposes.

B.112

IN WITNESS WHEREAS the parties thereto have hereunder set their hands in the presence of the undersigned witnesses at Gaberones this 14th day of July, 1967.

Witnesses

1. E.M.K. KGABO, .....

SERETSE KHAMA

.....  
President

2. J.C. HASKINS .....

Witnesses

1. B. PILANE .....

LINCHWE II

.....  
chief

2. T.K.C. RATSHEKO .....

#### SEVENTH SCHEDULE

#### MEMORANDUM OF AGREEMENT between —

HIS EXCELLENCY SIR SERETSE KHAMA, Knight of the Most Excellent Order of the British Empire, President of the Republic of Botswana and as such head of the executive government of Botswana.

and

KELEMOGILE SEBOKO MOKGOSI Regent of the Bamalete Tribe, in his capacity as such and for and on behalf of the Bamalete Tribe, acting with the approval of the South East District Council and after consultation with the Tribe in the customary manner and in accordance with the provisions of the Chieftainship Law, 1965 (hereinafter referred to as the Tribe);

NOW WHEREAS the Tribe is the owner of certain minerals within its tribal territory and of rights appertaining thereto or connected therewith;

AND WHEREAS it is just and equitable that such resources should enure to the benefit of all the inhabitants of Botswana and not to the benefit of a section thereof;

AND WHEREAS, in consequence, it is the desire of the parties that provision should be made by Act of Parliament for transferring to and vesting in the President on behalf of the Republic of Botswana the mineral resources and related rights, benefits and privileges of the Tribe and Chief;

AND WHEREAS the parties wish to record their desire as aforesaid:

NOW THEREFORE it is agreed —

1. There should be transferred to and vest in the President on behalf of the Republic of Botswana without compensation all the right, title and interest of the Tribe and Chief thereof in or to minerals within the Bamalete Tribal Territory including all mineral rights heretofore vested in the Tribe and Chief thereof and all moneys accruing to the Tribe and Chief thereof under any Crown or State Grant of mineral rights.

2. Where, in consequence of the vesting in the President on behalf of the Republic of Botswana of the rights enumerated in clause 1 of this Agreement, any moneys are, from time to time, paid to the Government under the provisions of any existing Crown Grant of mineral rights or under the provisions of any existing or future State Grant of mineral rights, by way of prospecting or mining rental (but not registration rental) for any area of land to which the grantee has been granted mineral rights as aforesaid, being an area within which the Tribe is, at the date of the signature of this Agreement, the residuary owner of the minerals and mineral rights, such moneys shall be paid by the Government to the South East District Council.

3. The parties record it as their desire that effect should be given to the provisions of this Agreement by Act of Parliament.

4. For the purposes of this Agreement —

“mineral rights” means rights to prospect, search for, win or appropriate minerals;

“mineral” or “minerals” means any constituent of the crust of the earth including diamonds, oil and oil shale; but does not include —

- (i) soil or subsoil, sand, sandstone or gravel;
- (ii) stone suitable for building, road making, ballasting railways or similar purposes;
- (iii) salt or clay reasonably required by members of the Bamalete Tribe for their pastoral, agricultural or domestic purposes.

**B.114**

IN WITNESS WHEREOF the parties thereto have hereunder set their hands in  
in the presence of the undersigned witnesses at Gaberones this 14th day of July,  
1967.

*Witnesses*

1. E.M.K. KGABO .....

..... SERETSE KHAMA

President

2. J.G. HASKINS .....

*Witnesses*

1. O.L. POROGO .....

..... K.S. MOKGOSI

Chief

2. A. MATSIETSA .....

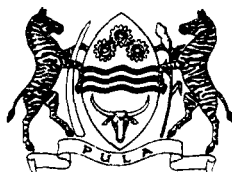
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.115

**THE ESSENTIAL SERVICES (ARBITRATION) ACT, 1967**

No. 32



of 1967

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

*Section*

1. Short Title and Application
2. Interpretation

**PART II**

**APPOINTMENT OF REPRESENTATIVES OF EMPLOYERS AND WORKMEN TO  
SETTLE TRADE DISPUTES**

3. Representatives may be appointed to negotiate settlement of disputes

B.116

### **PART III**

#### **SETTLEMENT OF TRADE DISPUTES BY CONCILIATION NEGOTIATION OR COMPULSORY ARBITRATION**

4. Arbitration Tribunals
5. Dispute Procedure
6. Regulation of Tribunal Proceedings
7. Powers of Labour Commissioner and Tribunal
8. Appearance in Proceedings
9. Proceedings to be Public or Private in Discretion of Authority holding them

### **PART IV**

#### **AWARDS**

10. Award to be Made Without Delay and may be Retrospective
11. Awards and Agreements to be Binding
12. Reference to Tribunal for Advice
13. Interpretation of Award
14. Arbitration Proclamation not to Apply
15. Vacancies in Tribunals
16. Award to be submitted to Minister

### **PART V**

#### **PROHIBITION OF LOCK OUTS AND STRIKES IN ESSENTIAL SERVICES**

17. Prohibition of Lock-outs and Strikes in essential Services
18. Counselling or Procuring Lock-out or Strike

### **PART VI**

#### **MISCELLANEOUS**

19. Sanction of Attorney-General
20. Rules
21. Additions to and Deletions from Schedule

### **SCHEDULE**



**AN ACT TO PROVIDE AN ARBITRATION TRIBUNAL FOR THE SETTLEMENT  
OF DISPUTES IN ESSENTIAL SERVICES**

Date of Assent : 28th September, 1967.

Date of Commencement : 29th September, 1967.

ENACTED by the Parliament of Botswana.

**PART I**

**PRELIMINARY**

**Short Title and Application**

1. This Act may be cited as the Essential Services (Arbitration) Act, 1967, and shall apply to trade disputes in essential services as hereinafter defined.

**Interpretation**

2. In this Act unless the context otherwise requires –

“essential services” means the services, by whomsoever rendered and whether rendered to the State or to any other person, which are specified in the Schedule;

“Labour Commissioner” means the person holding the office of Commissioner of Labour;

“lock out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a trade dispute, done, not with the intention of finally determining employment, but with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

“organisation” means a trade union or other association of persons which is, in the opinion of the Labour Commissioner, representative of employers or of workers as the case may be, and includes representatives appointed under section 3;

“registered trade union” means trade union registered under the Trade Unions and Trade Disputes Proclamation (Chapter 151);

“strike” means the cessation of work by a body of persons employed, acting in combination, or a concerted refusal or a refusal under a common under-

## **B.118**

standing of any number of persons employed to continue to work for an employer, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

“trade dispute” means any dispute or difference between employers and workmen, or between workmen and workmen, or between workmen and any authority or body, connected with the employment or non-employment, or the terms of employment, or the conditions of labour, of any person;

“Tribunal” means an Arbitration Tribunal constituted under section 4;

“workman” means any person who has entered into or works under a contract with an employer, whether the contract is by way of manual labour, clerical work or otherwise, is expressed or implied or is oral or in writing, and whether it is a contract of service or of apprenticeship or a contract personally to execute any work or labour.

## **PART II**

### **APPOINTMENT OF REPRESENTATIVES OF EMPLOYERS AND WORKMEN TO SETTLE TRADE DISPUTES**

#### **Representatives may be Appointed to Negotiate Settlement of Disputes**

3. For the purpose of adjusting or negotiating settlements of trade disputes in any essential service where no registered trade union exists, or no registered trade union exists which is, in the opinion of the Labour Commissioner sufficiently representative of the employers or of the workmen, as the case may be, the employers or the workmen or each of them the employers and the workmen, as the case may require, may on the invitation of the Labour Commissioner appoint such number of representatives, not exceeding five, as they think fit and such representatives may act on behalf of the employees or of the workmen by whom they were appointed, in negotiating an agreed settlement of any trade dispute.

## **PART III**

### **SETTLEMENT OF TRADE DISPUTES BY CONCILIATION, NEGOTIATION OR COMPULSORY ARBITRATION**

#### **Arbitration Tribunals**

4. For the purpose of settling trade disputes in essential services which cannot otherwise be determined, there may be constituted, at the discretion of the Minister, an Arbitration Tribunal consisting of –

- (a) a sole arbitrator appointed by the Minister; or

- (b) an arbitrator, nominated by the Minister, assisted by one or more assessors nominated by the employers concerned, and an equal number of assessors nominated by the workmen concerned, all of whom shall be appointed by the Minister; or
- (c) one or more arbitrators, selected from a panel nominated by or on behalf of the employers concerned, and an equal number of arbitrators, selected from a panel nominated by or on behalf of the workmen concerned, and an independent chairman, all of whom shall be appointed by the Minister.

#### **Dispute Procedure**

5. (1) If any trade dispute in an essential service exists or is apprehended, that dispute, if not otherwise determined, may be reported in writing to the Labour Commissioner by or on behalf of either party to the dispute, and the decision of the Labour Commissioner as to whether a dispute is or is not a trade dispute in an essential service and whether a dispute has been so reported to him or not and as to the time at which a dispute has been so reported shall be conclusive for all purposes.

(2) The Labour Commissioner shall consider any trade dispute so reported to him as aforesaid, and shall endeavour to conciliate the parties and to effect a negotiated agreement or other settlement, or, if in his opinion suitable means for settling the trade dispute already exist by virtue of the provisions of any agreement made between organisations of employers and workmen respectively, he may refer the matter for settlement in accordance with those provisions, or he may refer the matter for settlement by representatives appointed under section 3 of this Act: so, however, that where an attempt to conciliate the parties has failed or where a matter has been referred for settlement in accordance with any of the provisions of this subsection and there is a failure to reach a settlement or, in the opinion of the Labour Commissioner, a settlement is unduly delayed, the Labour Commissioner shall cancel the reference and report to the Minister, who may constitute a Tribunal under section 4 of this Act and refer the trade dispute to the Tribunal.

(3) Such reference shall be made by the Minister within twenty-one days from the date on which the trade dispute was reported to the Labour Commissioner under subsection (1) of this section unless, in the opinion of the Minister, the special circumstances of the case made it necessary or desirable to postpone such a reference for such further period as the Minister may in writing allow.

(4) The Tribunal shall consider any trade dispute referred to it under this section and shall make an award.

#### **Regulation of Tribunal Proceedings**

6. Save as expressly provided in this Act or in rules made under this Act, a Tribunal may regulate its procedure and proceedings as it thinks fit.

## **B.120**

### **Powers of Labour Commissioner and Tribunal**

7. (1) The Labour Commissioner for the purpose of effecting a negotiated agreement or other settlement, or a Tribunal for the purpose of dealing with any matter referred to it under section 5, may by order require any person –

- (a) to give such information and furnish such particulars as the Labour Commissioner or the Tribunal may specify in relation to the trade dispute;
- (b) to attend before the Labour Commissioner or the Tribunal;
- (c) to give evidence on oath or otherwise;
- (d) to produce any relevant document.

(2) Any person who fails to obey an order given under subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding R100.

### **Appearance in Proceedings**

8. Any interested person may appear in person or by his legal representative in any proceeding under this Act or under any rules made thereunder.

### **Proceedings to be Public or Private in Discretion of Authority holding them**

9. (1) The Labour Commissioner or a Tribunal may, in his or its discretion, admit or exclude the public and representatives of the press from any proceeding under this Act under any rules made thereunder.

(2) Whenever any representative of the press is permitted to be present at any such proceeding, and not otherwise, a fair and accurate report or summary of such proceeding may be published: but until the award has been made and published no comment shall be published in respect of the proceeding or the evidence.

(3) Any person who contravenes any of the provisions of subsection (2) of this section shall be guilty of an offence and liable to a fine not exceeding R500.

## **PART IV**

### **AWARDS**

#### **Award to be Made without Delay and may be Retrospective**

10. (1) A Tribunal shall make its award or, as the case may be, furnish its advice on any matter referred to it under section 12 of this Act, without delay and, where practicable, within twenty-one days from the date of reference.

(2) An award on any matter referred to a Tribunal for settlement may be made retrospective.

### **Awards and Agreements to be Binding**

11. (1) Any negotiated agreement or award made under section 5 shall be binding on the employers and workmen to whom the agreement or award relates, and, as from the date of such agreement or award or as from such date as may be specified therein pursuant to subsection (2) of section 10 it shall be an implied term of the contract between the employers and workmen to whom the agreement or award relates that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with such agreement or award until varied by a subsequent agreement or award.

(2) No application to vary any award shall, except with the permission in writing of the Minister, be made within six months of the promulgation of such award.

### **Reference in Tribunal for Advice**

12. The Labour Commissioner may refer to a Tribunal for advice any matter relating to or arising out of a trade dispute in an essential service which, in his opinion, ought to be so referred.

### **Interpretation of Award**

13. (1) If any question arises as to the interpretation of any award of a Tribunal, the Labour Commissioner or any party to the award may apply for a decision on such question, and the Tribunal shall decide the matter after hearing the parties, or without such hearing, if it thinks fit.

(2) The decision of the Tribunal shall be notified to the parties and shall be binding in the same manner as the decision in an original award.

### **Arbitration Proclamation not to Apply**

14. The Arbitration Proclamation 1959 (Proclamation No. 75 of 1959) shall not apply to the proceedings of a Tribunal or to any award made by a Tribunal.

### **Vacancies in Tribunals**

15. (1) Whenever a Tribunal consists of more than one arbitrator and any vacancy occurs in their number, the Tribunal may, in the discretion of the remaining arbitrators or arbitrator, act notwithstanding such vacancy.

(2) Whenever a Tribunal consists of an arbitrator, assisted by assessors, and any vacancy occurs in the number of assessors, the Tribunal may, in the discretion of the arbitrator, either act notwithstanding such vacancy or consent to another assessor being nominated and appointed to fill such vacancy.

(3) No act, proceeding or determination of a Tribunal shall be called in question or invalidated by reason of any such vacancy, provided that, in the cir-

## **B.122**

cumstances referred to in subsection (1) of this section, the required consent has been first obtained.

### **Award to be Submitted to Minister**

16. Every award shall be submitted to the Minister, who shall, as soon as possible thereafter, cause such award to be published in such manner as he may think fit.

## **PART V**

### **PROHIBITION OF LOCK-OUTS AND STRIKES IN ESSENTIAL SERVICES**

#### **Prohibition of Lock-outs and Strikes in Essential Services**

17. (1) An employer in any essential service shall not take part in a lock-out, and a workman in any essential service shall not take part in a strike, unless a trade dispute exists and has been reported to the Labour Commissioner in accordance with section 5 and twenty-one days or, if a further period has been allowed by the Minister under subsection (3) of that section, twenty-one days and such further period, have elapsed since the date of the report and the trade dispute has not during that time been settled or been referred to a Tribunal for settlement in accordance with that section.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding R200 or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment.

#### **Counselling or Procuring Lock-out or Strike**

18. (1) No person, whether an officer of a trade union or other association or not, shall declare, instigate, counsel, procure or abet a lock-out or strike in any essential service, unless a trade dispute exists and it has been reported to the Labour Commissioner in accordance with section 5 and twenty-one days or, if a further period has been allowed by the Minister under subsection (3) of that section, twenty-one days and such further period have elapsed since the date of such report and the dispute has not during that time been settled or been referred to a Tribunal by the Minister under that section.

(2) Any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding R500 or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

## **PART VI**

### **MISCELLANEOUS**

#### **Sanction of Attorney-General**

19. No prosecution for a contravention of section 17 or section 18 shall be instituted save by or with the consent of the Attorney-General.

#### **Rules**

20. The Minister may make rules for better carrying this Act into effect and in particular for regulating the procedure to be followed in any proceeding before a Tribunal.

#### **Additions to and Deletions from Schedule**

21. The President may by notice in the *Gazette*, add any service to, and delete any service from the Schedule.

### **SCHEDULE**

Water services  
Electricity services  
Health services  
Sanitary services  
Air traffic control services  
Civil aviation telecommunications services  
Fire services of the Government, of Rhodesia Railways and of local authorities  
Transport services necessary to the operation of any or the above mentioned services

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

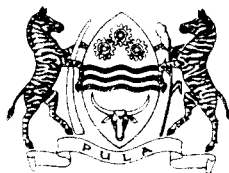
100% of the total population of the United States is expected to be covered by the proposed system by the year 2000.



B.125

**THE PUBLIC ORDER (AMENDMENT) ACT, 1967.**

No. 33



of 1967

**AN ACT TO AMEND THE PUBLIC ORDER ACT, 1967**

Date of Assent: 11.10.67.

Date of Commencement: 13.10.67.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Public Order (Amendment) Act. 1967.

**Amendment of Section 7 of Act 6 of 1967**

2. Section 7 of the Public Order Act, 1967 is amended by the addition of the following subsection, the existing section becoming, thereby, subsection (1) -

- “(2) The provisions of sections 4, 5 and 6 shall not apply to any public meeting convened ---
- (a) by or on behalf of a candidate for election in any Parliamentary or Town or District Council election after the issue of the writ of election;
  - (b) by a representative of the Government.”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE  
Clerk of the National Assembly.

1. The first part of the document is a list of the names of the members of the committee who have been appointed to study the problem of the distribution of the land in the district of the city of Moscow.

B.127

**THE LEGAL PRACTITIONERS ACT, 1967**

No. 34



of 1967

**AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE  
ADMISSION AND ENROLMENT AND PRACTICE OF LEGAL PRACTITIONERS  
IN BOTSWANA AND MATTERS ANCILLARY THERETO**

Date of Assent: 11.10.67.

Date of Commencement: 13.10.67.

ENACTED by the Parliament of Botswana

## PART I

### PRELIMINARY

#### Short Title

1. This Act may be cited as the Legal Practitioners Act, 1967.

#### Interpretation

2. In this Act, unless inconsistent with the context —

- “advocate” means any person duly admitted to practise as an advocate in Botswana;
- “articled clerk” means any person duly bound to serve under articles;
- “articles” means any contract in writing whereby any person is duly bound to serve an attorney for a specified period in terms of this Act;
- “attorney” means any person duly admitted to practise as an attorney-at-law in Botswana;
- “British subject” includes a British protected person;
- “committee” means the committee established under section 25;
- “conveyancer” means any person duly admitted to practise as a conveyancer in Botswana;
- “Court” means the Chief Justice or any judge of the High Court;
- “Courts of Botswana” means the Court of Appeal for Botswana, the High Court of Botswana and the Subordinate Courts established under the Subordinate Courts Proclamation (Chapter 5) and all tribunals to which practitioners have a right of audience; but, subject to the provisions of any other law and of the Constitution does not include any African Court or African Court of Appeal established under any law relating to such courts;
- “legal practitioner” means any person entitled to practise under this Act as an advocate, attorney, notary or conveyancer;
- “Master” means Master of the High Court;
- “notary” means any person duly admitted as a notary public in Botswana;
- “Registrar” means the Registrar of the High Court and includes an Assistant Registrar;
- “removed from the roll” means permanently to deprive of the right to practise;
- “roll” means the roll kept by the Registrar in terms of section 12;

“State Counsel” means any professional assistant appointed to assist the Attorney General;

“suspend” means temporarily to deprive of the right to practise.

### **Saving of Rights and Non-application to Law Officers**

3. (1) Nothing in this Act contained with reference to the admission of advocates, attorneys, notaries public or conveyancers shall apply to any person whose name, at the commencement of this Proclamation, appears on the roll kept by the Registrar in terms of section 11 of the Legal Practitioners Proclamation (Chapter 146); unless such person thereafter withdraws his name from the roll at his own request or has been struck off the roll in terms of this Act or the Legal Practitioners' Proclamation.

(2) Notwithstanding anything in this Act contained each of the following persons shall be entitled, in connection with the duties of his office, to exercise any of the functions of a legal practitioner, that is to say the Attorney-General, Deputy Attorney-General, the Legal Draftsman, any State Counsel and any person delegated by the Attorney-General to appear on behalf of the State in criminal matters in the Courts of Botswana.

## **PART II**

### **ADMISSION AND ENROLMENT OF LEGAL PRACTITIONERS**

#### **Admission of Legal Practitioners**

4. Any fit and proper person who possesses the qualifications hereinafter prescribed may apply to the Court upon written petition to be admitted and enrolled as an advocate, attorney, notary or conveyancer, as the case may be, and the court shall, unless cause to the contrary is shown to its satisfaction, admit and enrol such person as an advocate, attorney, notary or conveyancer.

#### **Proof of Qualifications**

5. Every person who applies to be admitted and enrolled as a legal practitioner shall produce to the satisfaction of the court proof of the possession by

## **B.130**

him of the qualifications prescribed by this Act in respect of such admission and enrolment.

### **Service on the Attorney-General**

6. (1) A copy of every petition for admission as a legal practitioner, together with copies of supporting affidavits and certificates, shall be served upon the Attorney-General not less than ten days before the hearing of such petition and such service may be effected personally or by registered post or by lodging a copy with the Registrar :

Provided that if the Court is satisfied that the application is urgent it may, in cases of application for admission and enrolment as an advocate or as an attorney, dispense with such service.

(2) The Attorney General and any legal practitioner may request the leave of the Court to appear as *amicus curiae* to oppose the granting of such petition.

### **Oaths to be Taken and Fees Paid**

7. No person shall be enrolled as a legal practitioner until he shall have taken before the Registrar the oath or affirmation of office set out in the Schedule and shall have paid the fees prescribed by section 12.

### **Qualifications for Admission as an Advocate**

8. The following persons shall be qualified to be admitted and to practise as advocates —

- (a) any Botswana Citizen or British subject who shall have been admitted as Barrister in England, Northern Ireland, the Republic of Ireland or as an advocate in the Court of Session of Scotland and who at the date of such petition is still entitled to practise as such Barrister in England, Northern Ireland or the Republic of Ireland or as an advocate in Scotland ; or
  - (b) any Botswana Citizen or British subject who shall have been admitted to practise as an advocate in any Division of the Supreme Court of South Africa or in the High Court of Rhodesia, and who at the date of such petition remains enrolled as an advocate of such Supreme Court or High Court and has practised exclusively as an advocate of such Court and not in partnership with any attorney of such Court ;
  - (c) any Botswana Citizen or British subject who has obtained by examination —
    - (i) the degree of LL.B of the University of Botswana, Lesotho and Swaziland ;  
or
    - (ii) such other degree in law as may be prescribed ;
- together with such additional qualifications, if any, as may be prescribed :

Provided that no such person shall be admitted to practise as an advocate of the Courts of Botswana or, after having been so admitted, shall continue to practise as aforesaid, who shall either himself be carrying on directly or indirectly, the business of an attorney, or be directly or indirectly interested in the business of any attorney or firm of attorneys in any Province of the Republic of South Africa or in Rhodesia or Botswana.

#### **Qualifications for Admission of an Attorney**

9. The following persons shall be qualified to be admitted and subject to the provisions of section 13 to practise as attorneys —

- (a) any Botswana Citizen or British subject who being an attorney or solicitor of any of the Courts of Record in London, Belfast or Dublin, or being a Writer to the Signet or a solicitor or law agent admitted to practise in the Court of Session of Scotland, is not under any order of suspension in any such Courts respectively ;
- (b) any Botswana Citizen or British subject who has been admitted to practise as an attorney or solicitor in any Division of the Supreme Court of South Africa or in the High Court of Rhodesia, and who at the date of such petition remains enrolled as an attorney of such Court and is not under any order of suspension in any such Court ;
- (c) any Botswana Citizen or British subject entitled under this Act to be admitted as an advocate of the Courts of Botswana :

Provided that —

- (i) he satisfies the court that he has not practised as an advocate for a period of three months immediately preceding his application for admission as an attorney under this Act ;
- (ii) where he is entitled to admission as an advocate under the provision of section 8 (c) he possesses such additional qualifications, if any, as may be prescribed;
- (d) any Botswana Citizen or British subject who has entered into articles in the manner, and for the term, specified in Part III and has duly served under those articles for that term and passed such attorney's admission examinations as maybe prescribed.

#### **Rights of Advocates and Attorneys**

10. Advocates and attorneys (not being persons removed from the roll or suspended) whether entitled to practise as such at the commencement of this Act or admitted and enrolled in terms of this Act shall subject to the provisions of section 13 have a right of audience in the Courts of Botswana :

Provided that no advocate shall have a right of audience in any such Court unless he is acting on the instructions of a person entitled to practise as an attorney or on the instructions of the Attorney-General or of the Court.

## **B.132**

### **Qualifications of Notaries Public and Conveyancers**

11. There shall be qualified to be admitted and to practise —

- (a) as a notary public any Botswana Citizen or British subject who has been —
  - (i) admitted as an attorney of the Courts of Botswana whether before or after the date of commencement of this Act and who has also been admitted to practise as a notary public by any Division of the Supreme Court of South Africa or by the High Court of Rhodesia and who at the date of such petition remains enrolled as a notary public in such Court and is not under any order of suspension in any such Court;
  - (ii) admitted as an attorney of the Courts of Botswana whether before or after the date of commencement of this Act, and who has passed such examination as may be prescribed in the practices, functions and duties of a notary;
- (b) as a conveyancer any Botswana Citizen or British subject who has been —
  - (i) admitted as an attorney of the Courts of Botswana whether before or after the date of commencement of this Act, and has also been admitted to practise as a conveyancer by any Division of the Supreme Court of South Africa or by the High Court of Rhodesia, and who at the date of such petition remains enrolled as a conveyancer in such Court and is not under any order of suspension of any such Court;
  - (ii) admitted as an attorney of the Courts of Botswana whether before or after the date of commencement of this Act, and who has passed such examination as may be prescribed in the practises, functions and duties of a conveyancer.

### **Records to be Kept by Registrar**

12. (1) The Registrar shall keep a roll of legal practitioners entitled or admitted to practise in terms of this Act and every person so admitted shall pay a fee of R10 for a certificate of admission and enrolment under the hand of the Registrar in the form prescribed in the Schedule.

(2) Such roll shall be in the form of separate alphabetical lists recording the names of advocates, attorneys, notaries public and conveyancers respectively, entitled to practise by reason of section 3 or admitted to practise under this Act with the dates of such admission and the relevant addresses.

(3) Whenever the High Court makes an order removing from the roll or suspending from practise any legal practitioner, or whenever any legal practitioner applies to have his name removed from the roll or the Registrar is required to remove the name of an attorney from the roll under section 13 (5) the Registrar shall forthwith enter on the roll kept by him, a note or minute of such order or removal opposite the name of the legal practitioner concerned.



**Practising Certificates for Attorneys**

13. (1) No attorney shall be entitled to practise as such in the Courts of Botswana in any year unless he is in possession of a practising certificate for that year issued under this section :

Provided that this subsection shall not apply during the month of January in any year in respect of any attorney who has held a practising certificate for the immediately preceding year.

(2) The Registrar shall issue a practising certificate for any year in such form as the Chief Justice may determine to any person admitted and enrolled as an attorney under this Act or any previous law who applies for the same in accordance with the provisions of subsection (3) and pays the fee prescribed in subsection (4).

(3) Every attorney applying for a practising certificate under this section shall deliver to the Registrar a written application in such form as the Chief Justice may determine stating the name and place or places of business of the applicant and the date of his admission and enrolment as an attorney and signed by him or his duly authorised agent.

(4) The fee to be paid to the Registrar in respect of every practising certificate issued by him shall be R2.00 in the case of an attorney ordinarily resident in Botswana and R50.00 in the case of any other attorney :

Provided that where an attorney ordinarily resident outside Botswana is the partner, employer or employee of an attorney who is in possession of a practising certificate for any year the fee payable by such attorney for a practising certificate for that year shall be R2.00.

(5) If any attorney fails to obtain a practising certificate under this section for any year, the Registrar shall notify such attorney of the provisions of this section by means of a registered letter posted to him at his last known address, and if within 90 days of the posting of such letter the attorney has not obtained such certificate the Registrar shall remove the name of such attorney from the roll.

(6) A practising certificate issued under section 11A of the Legal Practitioners Proclamation shall be deemed to have been issued under the provisions of this section.

**PART III**

**ARTICLES OF CLERKSHIP**

**Information to be Placed Before Registrar by Persons Intending to be Articled**

14. Every person intending to serve an attorney under articles shall produce to the Registrar —

## **B.134**

- (a) proof to the satisfaction of the Registrar that he is, or may lawfully become, a Botswana citizen or a British subject ;
- (b) his birth certificate or, if no birth certificate is available, satisfactory evidence of the date and place of his birth and of his parentage ; and
- (c) evidence to the satisfaction of the Registrar that he —
  - (i) is a fit and proper person ;
  - (ii) is not an unrehabilitated insolvent or undischarged bankrupt, whether under the law of Botswana or under the law of any other country ;
  - (iii) has passed the Cambridge Overseas School Certificate or the matriculation examination conduct and controlled by the Joint Matriculation Board of the University of South Africa or an examination which, in the opinion of the Registrar, is equivalent or superior thereto.

### **Articles to be Lodged with Registrar**

15. (1) The original and duplicate original articles shall be lodged within two months of the date of such articles, with the Registrar for the purpose of registration and shall be accompanied by an affidavit testifying to the signatures and date thereof and where the articles were executed.

(2) The Registrar shall not register any articles lodged under the provisions of subsection (1) unless the provisions of section 14 have first been complied with.

(3) If the articles are not registered within two months of the date of such articles the service shall, subject to such relief as the Court may grant under section 22 be reckoned to commence only as from the date of such registration.

(4) Within one month of the date on which the clerk commences service under him, the attorney shall file an affidavit with the Registrar as to the date upon which the clerk commenced service.

### **Cession of Articles**

16. (1) The articles of any articulated clerk may be ceded to any other attorney who may be willing to accept cession —

- (a) with the mutual consent of the cedent attorney and such articulated clerk : or
- (b) if the Court on the application of the clerk on the death, insanity, insolvency, conviction for crime, imprisonment for debt, suspension, striking off the rolls, discontinuance of practise of the attorney under whom such clerk is serving or for other similar and sufficient cause, directs that such articles be ceded ; the Court may, if it thinks fit further direct that the whole or any part of any period between the date of the death, insanity, insol-

## **B.135**

vency, conviction for crime, imprisonment for debt, suspension, striking off the rolls, discontinuance of practise of the attorney or other similar cause and the date of cession, shall be reckoned as part of the period for which the clerk is bound to serve under articles.

(2) The original and a duplicate of each cession of articles shall, within one month of the date thereof, be lodged for registration with the Registrar and shall be accompanied by an affidavit by the cedent as to the due and proper service and as to the date at which the articulated clerk left his employment, and by an affidavit by the cessionary as to the date at which the said clerk entered his employment.

(3) Upon production of the cession and affidavits and upon payment of such fees as may be prescribed, the Registrar shall, upon being satisfied that the cession is in order, register such cession.

(4) Where the Court has, in terms of paragraph (b) of subsection (1), directed that the articles of any clerk be ceded, the cession of the articles shall be deemed to have been validly executed if it is signed on behalf of the attorney under whom such clerk has served by such person as the Court may direct, and a certificate given under the hand of such person containing the particulars set forth in subsection (2) shall be deemed to be the affidavit of the cessionary for the purposes of this section.

(5) No cession shall be registered if it is lodged for registration otherwise than within one month of the date thereof, without an order of the High Court.

### **Amendment of Articles and Cessions**

17. The terms of deeds of articles of clerkship and deeds of cession of articles of clerkship may be amended by the parties thereto with the prior written consent of the Registrar.

### **Only Practising Attorneys to Have Articled Clerks**

18. (1) No attorney shall have or retain any clerk under articles unless such attorney —

- (a) is residing in Botswana; and
- (b) is practising the profession of attorney in Botswana on his own behalf or as a member of a partnership of attorneys; and
- (c) has duly practised such profession in Botswana for a continuous period of not less than —
  - (i) five years; or
  - (ii) two years and, in addition, has immediately before being admitted as an attorney in Botswana practised for not less than three years as an attorney or solicitor in any country or before any court mentioned in section 9;

(2) No attorney shall at any time have more than two articulated clerks:

## **B.136**

Provided that on the death or retirement from practice of a member of a partnership of attorneys, his surviving or remaining partner may take cession of the articles of any clerk who may have been articulated to his partner so deceased, although the said surviving or remaining partner may at the time have as many clerks articulated to him as are by law allowed.

### **Period of Articles and Service Thereunder**

19. (1) No person shall be admitted as an attorney in accordance with the provisions of section 9 (d) unless he has entered into articles and duly served under those articles for a term of —

- (a) three years in the case of any person who before entering into articles has taken at any university a prescribed degree, not being an honorary degree;
- (b) five years in the case of any other person.

(2) Service by a clerk to any attorney not entitled to have or retain a clerk under articles under section 18 or in terms of any articles which are not registered in accordance with the provisions of this Part shall not be deemed to be good or sufficient service for the purposes of the Act.

(3) Subject to the provisions of section 22 every clerk articulated to an attorney shall, during the whole term of service specified in the articles of clerkship, be and continue to be in the actual service of the attorney and in the office and under the direct personal supervision of that attorney or his partner or partners or manager being an attorney.

### **Articled Clerk not to Engage in Other Business**

20. (1) No person who may become bound under articles of clerkship to any attorney shall during his term of service, without the written consent of the Registrar previously had and obtained, hold any office or engage in any business whatsoever, other than that of clerk to such attorney and his partner or partners, if any, in the practice and employment of an attorney nor shall any such person during the term of such service have any pecuniary interest in the practice and employment of an attorney.

(2) In the event of any contravention of subsection (1) the articles shall be null and void *ab initio*, unless the Court, for good cause shown, condones the contravention.

### **When articles Clerk May Appear in Court**

21. Any articulated clerk who —

- (a) has served three years of his articles or, in the case of a clerk to whom the provisions of section 19(1) (a) apply, two years;
- (b) has satisfied all the requirements for the examinations prescribed by rules made under section 29 and has served at least one year of his articles;

shall be entitled to appear in any court in which his principal may lawfully appear (other than the High Court and Court of Appeal) on behalf of his principal who shall be entitled to charge the fees for the appearance as if he himself had appeared.

#### **Powers of Court**

22. (1) Where any person articted to an attorney under the provisions of this Act has not served under articles strictly in accordance with the provisions of such law, the High Court, upon being satisfied that such service, though irregular, is substantially equivalent to regular service may permit such person, upon such conditions as it may deem fit, to present (if otherwise qualified) his petition for admission as an attorney in the same manner as if the service in question had been regular and in conformity with the provisions of this Act.

(2) Where an articted clerk is absent from the offices of the attorney to whom he is articted for any period exceeding six weeks in any one year his articles shall be deemed to have been terminated upon the expiry of that period unless the Court has previously authorised such absence or later, upon cause shown, condones such absence.

(3) Where articles of clerkship have been terminated or abandoned before the completion thereof, the Court may, in its discretion and subject to such conditions as it may think fit to impose, direct that part or all of the period served under the articles so terminated or abandoned, be deemed to be service under any new articles for the purposes of section 19.

### **PART IV**

#### **TRUST ACCOUNTS AND NOTARIES' PROTOCOLS**

##### **Trust Accounts**

23. (1) Every practising attorney, notary or conveyancer having an office within Botswana shall open and keep a separate trust account, at a bank lawfully established within Botswana, in which he shall deposit all moneys held or received by him in connection with his practice within Botswana on account of any person, and he shall further be obliged to keep proper books of account containing particulars and information as to moneys received, held or paid by him for or on account of any person.

(2) The Attorney-General may himself or through his nominee at public expense inspect the books of account of any such attorney, notary or conveyancer to satisfy himself that the provisions of subsection (1) are being observed:

Provided that, if it is found upon such an inspection that the attorney, notary or conveyancer has not complied with the provisions of subsection (1), the reasonable cost of the inspection shall be paid by the attorney, notary and conveyancer.

**B.138**

(3) No amount standing to the credit of such a trust account in the bank shall form part of the assets of the attorney, notary or conveyancer concerned and no such amount shall be liable to attachment at the instance of any creditor of the attorney, notary or conveyancer:

Provided that any excess remaining after payment of the claims of all persons whose moneys have, or should have, been deposited in the trust account shall be deemed to form part of the assets of that attorney, notary or conveyancer.

(4) Upon application made by the Attorney-General and upon good cause shown, the Court may prohibit any attorney, notary or conveyancer from operating in any way his trust account and, if there is reason to believe that trust moneys have been improperly deposited in any other account, such other account, and may appoint a *curator bonis* to control and administer such accounts.

(5) Upon the death of insolvency of, or the assignment of his estate by an attorney, notary or conveyancer or in the event of an attorney, notary or conveyancer being struck off the roll or being suspended from practice or being declared by a court of competent jurisdiction to be incapable of managing his own affairs, or abandoning his practice, the Master may, upon application made by the Attorney-General or by any person having an interest in the trust account of the attorney, notary or conveyancer, approve a *curator bonis* to control and administer the trust account.

(6) Any person aggrieved by a decision of the Master under subsection (5) may, within thirty days after the decision became known to him, appeal to the Court which may confirm or vary the decision of the Master or give such other decision as in its opinion, the Master ought to have given.

(7) Nothing in subsections (5) or (6) shall be construed as preventing any attorney, notary or conveyancer who was practising in partnership with an attorney, notary or conveyancer referred to in subsection (5) from continuing to operate on the trust account of that partnership.

(8) Any bank at which an attorney, notary or conveyancer keeps such trust account shall not, by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that the attorney, notary or conveyancer is not entitled absolutely to all moneys paid or credited to the said account:

Provided that nothing in this subsection shall relieve a bank from any liability or obligation under which it would be apart from this Act.

(9) A bank at which an attorney, notary or conveyancer keeps a trust account shall not, in respect of any liability of the attorney, notary or conveyancer to the bank, not being a liability arising out of or in connection with the said account, have or obtain any recourse or right, whether by way of set off, counter-claim, charge or otherwise, against moneys standing to the credit of the said account.

### **Examination of Protocol and Registers of Notaries**

24. (1) Every notary practising in Botswana shall keep a book to be called the protocol register, in which he shall register all deeds enacted by him in the order in which they are executed.

(2) The protocol register shall contain in columns the —

- (a) distinguishing number ;
- (b) date of execution ;
- (c) nature and designation of the deed ;
- (d) full names of the appearers ;
- (e) date of registration ;
- (f) amount of stamp duty affixed to each deed.

(3) After receiving twenty-four hours' written notice, a notary shall produce his protocols and registers to a commissioner appointed for that purpose by the Attorney-General for inspection at such time and place as he may direct.

(4) Notaries shall cause all instruments to be neatly and securely bound together when they amount in number to one hundred.

(5) If any notary public ceases to practise as such, he, or if he is dead, his executor, shall within a reasonable time deliver the notary's protocol and register to the Registrar who shall file them on record.

(6) The commissioner appointed under subsection (3) shall make his examination as soon as possible after the first day of January and the first day of July in each year and report the results of his investigations to the Attorney-General.

## **PART V**

### **LEGAL PRACTITIONER'S COMMITTEE**

#### **Establishment of Legal Practitioners' Committee**

25. (1) There shall be a committee, to be styled the Legal Practitioner's Committee which shall consist of —

- (a) a person to be nominated by the Chief Justice ;
- (b) the Attorney-General ;
- (c) a person being either an advocate or attorney in private practice, nominated by the Chief Justice in consultation with the Attorney-General to represent the legal profession :

Provided that where the Chief Justice is of the opinion that neither an

**B.140**

advocate nor an attorney can adequately represent the whole legal profession he may nominate both an advocate and an attorney.

(2) The persons nominated under paragraphs (a) and (c) of subsection (1) shall hold office at the pleasure of the Chief Justice who may, in addition, where he is of the opinion that any nominated member of the committee may have an interest in a matter which has been brought before the Committee under this Act or is absent or unable for any cause to attend a meeting of the committee nominate a person to act in the place of such member at such meetings, or for such period, as he may direct.

(3) The decision of the Committee shall be the decision of majority of its members.

**Functions of the Legal Practitioners' Committee**

26. The functions of the Committee shall be —

- (a) to investigate cases of misconduct by legal practitioners and to perform such other functions in connection therewith as are prescribed in Part VI;
- (b) to examine persons in such subjects and in such manner as may be prescribed and to determine the syllabus for any examination;
- (c) to perform such additional functions as may be prescribed.

**PART VI**

**MISCONDUCT**

**Removal and Suspension from Roll**

27. (1) The Court may, on reasonable cause shown order the suspension or removal of any person from the roll.

(2) The Registrar shall refer any complaint of professional misconduct by any legal practitioner to the Committee which shall investigate the complaint and take such action thereon as it shall deem fit.

(3) Where the Committee is of the opinion that misconduct has been established it may either —

- (a) warn or reprimand the practitioner concerned;
- (b) direct the Attorney-General to make application to the High Court in accordance with the provisions of subsection (4).

(4) Every application to suspend or remove from the roll shall be made by the Attorney-General by way of motion to the Court, supported by affidavit or affidavits of the facts on which the application is based:

Provided that the Court may order that any question of fact shall be tried by pleadings or otherwise as the Court shall deem fit.



(5) The Attorney-General and the members of the Committee shall not be subject or liable to any action or proceedings for damages in the *bona fide* execution of their duties and the taking of any steps or the institution of any proceedings under or purporting to be under the provisions of this section.

**Definition of Misconduct**

28. (1) Misconduct on the part of a legal practitioners shall include, *inter alia* the commission of any of the following acts —

- (a) touting ;
- (b) advertising ;
- (c) tendering or offering in response to advertisements, circulars or similar invitations either directly or indirectly for the performance of any work or business proper to the calling of a legal practitioner or commonly associated therewith ;
- (d) allowing his name with all or any of his qualifications of advocate, attorney, notary or conveyancer to appear by way of advertisement or notification or by way of information upon any business letter heads, accounts or other document whatsoever in conjunction with the name of a person not being an attorney ;
- (e) entering into or continuing to be a part to any contract or arrangement with an unqualified person the effect whereof is to place him under such control on the part of such unqualified person as may interfere with his independence as an officer of the Court ;
- (f) committing any act which may be prescribed as misconduct.

(2) Misconduct on the part of an attorney, notary or conveyancer shall include, *inter alia* the commission of any of the following acts —

- (a) giving or taking allowances in contravention of the provisions of this Act or of any other law ;
- (b) withholding the payment of trust moneys without lawful cause ;
- (c) in any way assisting, allowing or enabling an unqualified person to charge, recover or receive any fee or derive any remuneration in respect of or in connection with the preparation or execution of any document or the performance of any professional work which only an attorney, notary or conveyancer as the case may be, is qualified by law to prepare, sign, execute, attest or perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration as aforesaid is or shall be charged, recovered or received, by any such unqualified person ;

## **B.142**

- (d) opening or maintaining any office or branch which is not under the continuous personal supervision of an attorney ;
- (e) keeping the accounts of his business as an attorney, notary or conveyancer in the books of accounts utilized in connection with any other business in which he may be interested jointly with an unqualified person ;
- (f) remunerating an employee who is an unqualified person by way of a share in the profits of his business as an attorney, notary or conveyancer ;
- (g) referring to or mentioning his professional qualifications of attorney, notary or conveyancer or any one or more of them, on his sale advertisements by a legal practitioner who also carries on the business of an auctioneer ;
- (h) assisting any unqualified person to recover charges for services rendered by including the same in any bill of costs or memorandum of charges rendered by him as a legal practitioner, without disclosing the facts in such bill or memorandum ;
- (i) entering into or continuing to be a party to any contract of partnership with or of employment by a person not being an attorney in estate and general agency the direct or indirect result whereof is to enable the unqualified person to enjoy or participate in fees reserved to a legal practitioner only or to secure for the legal practitioner the benefit of professional business solicited by the unqualified person ;
- (j) levying any charges or accepting any fee which is less than the minimum charge or fee prescribed by the rules in a tariff of minimum charges ;
- (k) accepting any premium or other consideration direct or indirect, in respect of any person entering into articles with him or in respect of his retaining any person under articles ;
- (l) committing any act which may be prescribed as misconduct.

## **PART VII**

### **OFFENCES AND SUPPLEMENTARY**

#### **Rules**

29. The Chief Justice may, with the approval of the Minister, make rules —
- (a) prescribing anything which in terms of this Act is to or may be prescribed ;
  - (b) to prescribe the fees or charges which may be made by the Registrar in the performance of his functions under this Act ;
  - (c) prescribing the fees or allowances payable to members of the Committee ;
  - (d) regulating the conditions of service of, and the salaries payable to, articled clerks ;

- (e) generally for the better carrying out of the provisions of this Act.

### **Exemption of Aliens**

30. The provisions of section 8, 9, and 11 shall have effect in relation to any person who, although not a Botswana Citizen or British subject —

- (a) is domiciled in Botswana in terms of section 3 of the Immigration Law, 1966 (No. 19 of 1966);
- (b) is exempted in writing by the Minister for the time being responsible for immigration from the nationality requirement mentioned in those sections; or
- (c) is enrolled as an advocate, attorney, notary public or conveyancer under this Act (or in the manner mentioned in section 3);

as if he were a Botswana Citizen or British subject.

### **Offences**

31. (1) No person, other than an advocate, attorney, notary or conveyancer admitted and enrolled, and in the case of an attorney entitled to practise in the Courts of Botswana, shall practise as such within Botswana or in any manner hold himself out as or pretend to be, or make use of any words or any name, title or addition or description implying or tending to the belief that he is an advocate, attorney, notary or conveyancer or is recognised by law as such.

(2) No person shall orally or by means of any written or printed matter or in any manner whatsoever, directly or indirectly, either for himself or for any other person, canvass, advertise or tout for, or make known his preparedness or that of such other person to undertake, any work, whether for or without remuneration, in connection with the administration or liquidation or distribution of the estate of any deceased or insolvent person, lunatic, or person under other disability.

(3) No advocate, attorney, notary or conveyancer who shall have been struck off the rolls or suspended from practice shall while he is struck off or suspended continue to practise as an advocate, attorney, notary or conveyancer directly or indirectly by himself or in partnership or association with any other person.

(4) No attorney, notary or conveyancer shall employ in any capacity whatsoever any person who shall have been struck off the rolls (except in pursuance of section 13 (5)) or suspended from practice while such person is struck off or suspended.

(5) No attorney, notary or conveyancer shall make over, share or divide with any person other than a practising attorney, notary or conveyancer in Botswana or a legal practitioner outside Botswana, either by way of partnership, commission or allowance or in any other manner, any portion whatsoever of his professional fees.

## **B.144**

(6) Any person contravening the provisions of subsection (1) to (5) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200 for each offence :

Provided that it shall not be deemed to be a contravention of subsection (2) if —

- (a) any board of executors or trust company (not being a private company within the meaning of the law relating to companies) —
  - (i) has in its name or title words indicating that its objects or functions include work in connection with the administration, liquidation or distribution of any estate mentioned in subsection (2); or
  - (ii) on signboards, nameplates, or notices exhibited on the premises in which it carries on business, on its stationery, or on its usual annual almanacs or in any advertisement in the public press, or in its annual reports or any report of the proceedings at an annual general meeting makes known by a simple statement to that effect that its objects or functions include any such work;
- (b) any person in reply to a direct enquiry voluntarily made of him by someone else makes known the preparedness of himself or some other person to perform any such work;
- (c) any shareholder or employee of a board of executors or trust company described in sub-paragraph (a) of subsection (6) canvasses another shareholder or employee of the same board of executors or trust company on behalf of such board or company;
- (d) any attorney, notary or conveyancer or any commercial banking institution or any such board of executors or trust company indicates in any public notice required by law in connection with the liquidation or administration of any estate, that he or it does such work.

(7) Any attorney, notary or conveyancer who contravenes subsection (1) of section 23 shall be guilty of an offence and liable, on conviction, to a fine not exceeding R500 or in default of payment for imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(8) Any legal practitioner contravening subsection (2), (4), (5) or (7) shall be guilty of unprofessional conduct and shall in addition to the liability imposed by subsection (6) be liable to be removed from the roll or suspended from practice on application by the Attorney-General to the High Court in the manner prescribed in section 27 (4);

(9) Save as provided in subsection (10) any person, not being a practising advocate, attorney, notary or conveyancer, who for or in expectation of any fee, gain or reward, direct or indirect, to himself or to any other person draws or prepares or causes to be drawn or prepared any of the following documents —

- (a) any contract, deed or instrument relating to land or immovable property, other than conditions of sale or brokers notes ;
- (b) any will or other testamentary instrument ;
- (c) any memorandum or articles of association or prospectus of any company ;
- (d) any contract, deed or instrument relating to the creation or dissolution of any partnership or any variation of the terms thereof ;
- (e) any instrument or document relating to or required or intended for use in any action, suit or other proceeding in a Court of civil jurisdiction within Botswana ;

shall be guilty of an offence and liable on conviction in respect of each offence to a fine not exceeding R200 and in default of payment thereof to imprisonment not exceeding three months :

Provided that the words "fee, gain or reward direct or indirect" shall not include or apply to —

- (i) the salary or emoluments of an employee if no fee, gain or reward is sought or obtained by his employer from the person on whose behalf the document was drawn or prepared ; or
  - (ii) any commission or other remuneration to which any person is or may be entitled either by law or otherwise for service in his capacity as executor, administrator, trustee, curator, tutor or guardian by virtue of his appointment as such by any Court of law or under the provisions of any will or other testamentary instrument, or as agent for any person holding such appointment.
- (10) The provisions of subsection (9) shall not apply to —
- (a) any person in the employ of a practising attorney, notary or conveyancer drawing or preparing or causing to be drawn or prepared any of the aforesaid documents in the course of his employment and on behalf of his employer ;
  - (b) any person in the service of the Government of Botswana drawing or preparing or causing to be prepared any of the aforesaid documents in the course of his duty ;
  - (c) any trustee under the laws relating to insolvency or any executor, administrator or curator or any liquidator of a company drawing or preparing any such document in the course of his statutory duties and receiving such fees as may be allowed by law ;
  - (d) any practising advocate in so far as he would be entitled but for the passing of this Act to draw or prepare any of the aforesaid documents in the ordinary course of his profession.

**B.146**

**Repeal of Cap. 146**

32. The Legal Practitioners Proclamation (Chapter 146) is repealed.

**SCHEDULE**  
(section 7)

**OATH OR AFFIRMATION OF OFFICE**

(In the Courts of Botswana)

I.....  
do swear (or do solemnly affirm) that I will truly and honestly demean myself in  
the practice of an..... according to the best of my knowledge  
and ability.

(In the case of an Oath here add)

So help me God

.....  
Sworn (or Affirmed) before me .....  
at ..... this ..... day of  
..... 19.....

.....  
Registrar

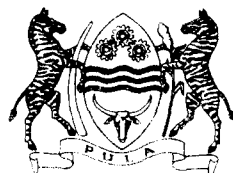
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk to the National Assembly

B.147

## THE HIGH COURT OF BOTSWANA ACT, 1967

No. 35



of 1967

### TABLE OF CONTENTS

#### Section

1. Short Title and Commencement
2. Interpretation
3. Puisne Judges
4. Rank and Precedence
5. Acting Judges
6. Appointment of Officers
7. Seal of the High Court
8. Proceedings to be in Open Court and in English
9. Jurisdiction of the High Court
10. Decisions of the High Court
11. Powers of High Court on Hearing Appeals

## **B.148**

12. Assistance of Assessors
13. Review
14. Declaratory Orders
15. Manner of Dealing with Commissions Regatoire etc.
16. Jurisdiction Founded on Attachment or Arrest.
17. Manner of Securing Attendance of Witnesses in Civil Proceedings
18. Refusal of Witness to Give Evidence
19. Execution of Instruments by Order of Court
20. Recovery of Costs in Civil Proceedings by Attorney-General
21. Restriction of Vexatious Actions
22. Restriction on Decree of Civil Imprisonment
23. Execution of Process
24. Service of Process on Sheriff
25. Property not liable to be Seized in Execution
26. Offences Relating to Execution
27. Jurisdiction of Registrar
28. Rules of Court
29. Repeal and Savings

## **AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE HIGH COURT OF BOTSWANA**

Date of Assent: 11.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana

### **Short Title and Commencement**

1. This Act may be cited as the High Court of Botswana Act, 1967, and shall come into operation on a date to be appointed by the Minister by notice in the *Gazette*.

### **Interpretation**

2. In this Act, unless inconsistent with the context —

“Court” means the High Court;

“Registrar” means Registrar of the High Court;

“Sheriff” means the person performing the functions of a sheriff under section 6 and shall include a deputy sheriff.



**Puisne Judges**

3. In addition to the Chief Justice there shall be not more than two puisne judges.

**Rank and Precedence**

4. The Chief Justice shall take rank and precedence before the puisne judges, and the puisne judges shall take rank and precedence between themselves according to the priority of their appointments.

**Acting Judges**

5. Every person appointed to act as a judge of the Court under subsection (6) of section 97 of the Constitution shall have the jurisdiction, functions and privileges of a judge of that Court —

- (a) during the whole of the period of his appointment in the case of a person appointed for continuous service in that capacity ; or
- (b) during those periods when he performs the functions of a judge, in the case of a person appointed for temporary service in that capacity ;

but shall not otherwise be deemed to be a judge save in so far as paragraph (b) of the proviso to section 97(5) of the Constitution provides to the contrary.

**Appointment of Officers**

6. (1) The Registrar may appoint any public officer in his department to perform any of the functions vested in the Registrar by this Act or under any law ; and any officer so appointed may perform such functions subject to such direction as may be given by the Registrar.

(2) The Minister may appoint a public officer to perform any of the functions vested in the Sheriff by this Act or under any law and, in the absence of any such appointment, the Registrar shall be Sheriff and may perform such functions.

(3) The Sheriff may appoint one or more persons, to be styled deputy sheriffs, to perform subject to the direction of the Sheriff, the functions vested in the Sheriff by this Act or any law :

Provided that —

- (a) no person who holds any office in the public service shall be appointed as deputy sheriff to perform the functions vested in the Sheriff as aforesaid in addition to the functions of such office without the consent of the authority empowered to exercise disciplinary control over such officer in terms of section 111 of the Constitution ;
- (b) the office of deputy sheriff shall not be an office of emolument in the public service.
- (4) A deputy sheriff who is not also an officer in the public service shall

## **B.150**

as soon as possible after his appointment furnish security to the satisfaction of the Sheriff for the due and faithful performance of his functions, and if he fails or neglects to furnish such security within a period fixed by the Sheriff, his appointment shall lapse at the expiration of the said period.

(5) The Chief Justice may give such directions as he thinks fit as to the duties to be carried out by, and for the apportionment of functions among the officers of the Court, and, without prejudice to the generality of the power hereby conferred, such directions may specify, either by name or office, the officers of the Court who shall be responsible for the issue of summonses, warrants and writs of execution, for the registration of orders and judgments, for the taxing of bills of costs, for the keeping of the records of the proceedings of the Court, and for the custody of and other matters relating to fines, fees and other moneys paid into or out of the Court.

### **Seal of the High Court**

7. (1) The High Court shall have, and use as occasion may require a seal, bearing the device and impression of the Arms of Botswana surrounded by the legend "The High Court of Botswana".

(2) Such seal shall be delivered to and kept in the custody of the Registrar.

### **Proceedings to be in Open Court and in English**

8. (1) Save as is otherwise provided in the rules of court or in any other law, all proceedings in the High Court shall be carried on, and sentences, judgments and orders thereof pronounced and declared in open Court:

Provided that at any time during the trial the Judge presiding may, if he thinks fit and subject to the provisions of subsections (10) and (11) of section 10 of the Constitution, order the Court to be cleared or that any person or class of persons shall leave the Court; and such Judge is hereby empowered to exclude from the proceedings, being proceedings to which the said subsections apply, persons other than the parties thereto and their legal representatives to such extent as he may consider desirable in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of the persons concerned in the proceedings.

(2) The pleadings and proceedings of the High Court shall be in the English language.

### **Jurisdiction of the High Court**

9. (1) The High Court shall be a court of record and shall have jurisdiction in all cases and proceedings whatsoever, both civil and criminal, arising or which have arisen in Botswana.

(2) Subject to the provisions of section 12 the jurisdiction of the High

Court may, subject to any rules of court, be exercised by one judge sitting alone or by two or more judges.

**Decisions of the High Court**

10. (1) Where more than two judges are sitting together the decision of the majority shall be taken and deemed to be the decision of the High Court.

(2) Wherever there is a difference of opinion on any matter being heard by two judges sitting together the decision of the Chief Justice, or in his absence, by the senior judge present shall be taken and deemed to be the decision of the Court.

(3) If at any stage during the hearing of any matter by two or more judges, any such judge dies or retires or is otherwise incapable of continuing to sit as a member of the court or is absent, the hearing shall proceed before the remaining judge or judges.

(4) The Court shall be deemed to be duly constituted during, and notwithstanding, any vacancy in the office of Chief Justice or of any puisne judge.

**Powers of High Court on hearing Appeals**

11. The High Court shall be a Court of Appeal from all subordinate courts in Botswana, with power —

- (a) to confirm, amend or set aside any judgment, decision or order, civil or criminal, of any subordinate court;
- (b) to order a new trial of any cause heard or decided in any subordinate court, or to direct, if it deems fit, that such new trial shall be heard in the High Court;
- (c) to receive further evidence, or to remit the case to the court of first instance for further hearing, with such instructions as to any further proceedings as the High Court may deem necessary;
- (d) to impose such punishment (whether more or less severe than, or of a different nature from, the punishment imposed by the court of first instance) as in the opinion of the High Court ought to have been imposed by that court:

Provided that notwithstanding that the High Court is of the opinion that any point raised might be decided in favour of the accused, no conviction or sentence shall be set aside or altered by reason of any irregularity or defect in the record of proceedings, unless it appears to the High Court that a failure of justice has in fact resulted therefrom.

**Assistance of Assessors**

12. (1) The High Court may call to its assistance at any civil or criminal

## **B.152**

trial or appeal, and shall call to its assistance in any criminal trial in respect of an offence for which the person charged may be sentenced to death, two or more assessors who shall be chosen by the presiding Judge, from a panel nominated by the Minister.

(2) It shall be the duty of such assessors to give, either in open court or otherwise, such assistance and advice as the Judge may require, but the decision shall be vested exclusively in the Judge.

(3) The agreement or disagreement of an assessor with the decision of the Judge shall be noted on the record.

### **Review of Judicial Proceedings**

13. (1) The High Court shall have full power, jurisdiction and authority to review the proceedings of all inferior courts within Botswana, and if necessary to set aside or correct the same.

(2) The grounds upon which the proceedings of all inferior court may be brought under review before the High Court shall be —

- (a) absence of jurisdiction on the part of the court; or
- (b) interest in the cause, bias, malice, or corruption on the part of the presiding judicial officer; or
- (c) gross irregularity in the proceedings; or
- (d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.

(3) Nothing in this section shall affect the provisions of any other law relating to the review of proceedings in inferior courts.

### **Declaratory Orders**

14. The High Court may, at the instance of any interested person, inquire into and determine any existing, future or contingent right or obligation notwithstanding that such person cannot claim any relief consequential upon such determination.

### **Manner of Dealing with Commissions Rogatoire etc.**

15. (1) Whenever a commission rogatoire or letter of request received from any State or territory or court outside Botswana is transmitted to the Registrar by the Permanent Secretary, Ministry of Home Affairs together with a translation in English if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto without requiring an application to be made to such division by the agents, if any, of the parties to the action or matter, the Registrar shall submit the same to a judge in chambers in order to give effect to such commission rogatoire or letter of request.

(2) Whenever a request for the service on a person in Botswana of any civil process or citation is received from a State, territory or court outside Botswana, is transmitted to the Registrar by the Permanent Secretary, Ministry of Home Affairs, together with a translation in English if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto, the Registrar shall cause service of the said process or citation to be effected in accordance with the rules of court by the Sheriff or deputy sheriff or any person specially appointed thereto by a judge of the High Court.

(3) The Registrar shall, after effect has been given to any such commission rogatoire, letter of request, process or citation, return all relevant documents, duly verified in accordance with the rules of court, to the Permanent Secretary, Ministry of Home Affairs for transmission.

(4) Except where the Minister otherwise directs, no fees other than disbursements shall be recovered from any State, territory or court on whose behalf any service such as is referred to in this section has been performed.

#### **Jurisdiction Founded on Attachment or Arrest**

16. The High Court may exercise the jurisdiction founded on or confirmed by attachment or arrest by the issue of process for service outside the jurisdiction of the court, with or without an order for attachment or arrest as to that court seems fit.

#### **Manner of Securing Attendance of Witnesses in Civil Proceedings**

17. (1) A party to civil proceedings before the High Court in which the attendance of witnesses is required may procure the attendance of any witness in the manner provided for in the rules of court.

(2) Wherever any person subpoenaed to attend any civil proceedings as a witness fails without reasonable cause to obey the subpoena and it appears from the return of the proper officer or from evidence given on oath that the subpoena was served upon the person to whom it is directed and that his reasonable expenses calculated in accordance with the tariff prescribed in the rules of court have been paid or offered to him, or that he is evading service, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the court in which such proceedings are conducted may issue a warrant directing that he be arrested and brought before the court at a time and place stated in the warrant or as soon thereafter as possible.

(3) A person arrested under any such warrant may be detained thereunder before the court which issued it or in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him with a view to securing his presence as a witness at the said proceedings :

Provided that the court may release him on a recognizance with or without securities, for his appearance at the inquiry referred to in subsection (4).

## **B.154**

(4) The Court may in a summary manner inquire into such person's evasion of the service of the subpoena or failure to obey the subpoena or to remain in attendance, and may, unless it is proved that such person has a reasonable excuse such for evasion or failure, sentence him to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months.

(5) Any sentence imposed by the court under subsection (4) shall be enforced and shall be subject to appeal as if it were a sentence imposed for a criminal case.

(6) If a person who has entered into any recognizance for his appearance to give evidence at such proceedings or for his appearance at an inquiry referred to in subsection (4) fails so to appear, he may, apart from the forfeiture of his recognizance, be dealt with as if he had failed to obey a subpoena to attend such proceedings or appear at such inquiry.

### **Refusal of Witness to Give Evidence**

18. (1) Whenever any person who either appears in obedience to a subpoena, or by virtue of a warrant issued under section 17, or is present and is verbally required by the Court to give evidence in any civil proceedings, refuses to be sworn or to make an affirmation, or, having been sworn or made an affirmation, refuses to answer such questions as are put to him, or refuses or fails to produce any document or thing which he is required to produce, without any just excuse for such refusal or failure, the Court may adjourn the proceedings for any period not exceeding eight days, and may, in the meantime, by warrant commit the person so refusing or failing to prison unless he sooner consents to do what is required of him.

(2) If any person referred to in subsection (1) again refuses at the resumed hearing of the proceedings to do what is so required of him, the Court may again adjourn the proceedings and commit him for a like period and so again from time to time until such person consents to do what is required of him.

(3) Nothing in this section contained shall prevent the Court from giving judgment in any case or otherwise disposing of the proceedings according to any other sufficient evidence taken.

### **Execution of Instruments by Order of Court**

19. Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the Court may, on such terms and conditions as it thinks fit, order that the conveyance, contract or other document shall be endorsed by such person as the Court shall nominate for such purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.

### **Recovery of Costs in Civil Proceedings by Attorney-General**

20. (1) Notwithstanding anything contained in the Attorney-General's Proclamation (Cap. 19), the functions of the Attorney-General shall include the performance in the High Court of such work on behalf of the Government of Botswana as is by law, practice or custom performed by advocates or attorneys.

(2) The Attorney-General may depute any person, either specially or generally, to exercise on his behalf the functions vested in him by subsection (1).

(3) In every application, motion, action, suit or other legal proceedings whatever of a civil nature, in or before the High Court, in or in connection with which the Attorney-General or any person deputed by him has appeared, or in any matter wherein he or such person has acted in performance of the said functions, fees and cost may be taxed and recovered in the same manner as if such function has been performed by a legal practitioner in private practice.

(4) Any fees and costs recovered under this section shall be paid into the Consolidated Fund.

(5) Nothing in this section contained shall be construed so as to prevent the Attorney-General employing in the ordinary manner advocates or attorneys in private practice, and recovering any fees payable to such attorneys and advocates.

### **Restriction of Vexatious Actions**

21. If, on application made by the Attorney General under this section, the Court is satisfied that any person has habitually and persistently and without reasonable cause instituted vexatious legal proceedings, whether in the Court or in any subordinate court, and whether against the same persons or against different persons, the Court may, after hearing such person or giving him an opportunity of being heard, order that no legal proceedings shall, without the leave of the Court, be instituted by him in any court before the making of the order and shall not be continued by him without such leave, and such leave shall not be given unless the Court is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* ground for such proceedings.

### **Restriction on Decree of Civil Imprisonment**

22. No writ of civil imprisonment for non-payment or non-satisfaction of any judgment or decree shall be granted or issued by the Court in cases in which the defendant or other party against whom such writ of civil imprisonment is sought to be issued proves to the satisfaction of the Court that such defendant or other party has no property or means sufficient to satisfy in whole or in part the said judgment or decree.

### **Execution of Process**

23. (1) The Sheriff shall by himself or by a deputy sheriff execute all sen-

## **B.156**

tences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the High Court, and shall make a return thereof to the High Court, together with the manner of the execution thereof.

(2) The Sheriff may, notwithstanding the appointment of a deputy sheriff, give special directions for the service of any particular process by some person other than the duly appointed deputy sheriff for the area concerned.

(3) The return of the Sheriff or deputy sheriff or person mentioned in subsection (2) of what has been done upon any process of the court, shall be *prima facie* evidence of the matters therein stated.

(4) The Sheriff shall receive and detain, or cause to be detained, in prison all such persons as are arrested by order of the Court or committed to his custody by that court or by the Chief Justice or by any other judge of that court.

### **Service of Process on Sheriff**

24. Whenever any process requires to be served on the Sheriff, such process may be served by the other party by delivering a copy thereof to him at his office during ordinary office hours against his signature.

### **Property not liable to be Seized in Execution**

25. The following property shall not be seized in execution of any process of the Court —

- (a) the necessary beds and bedding and wearing apparel of the person against whom execution is levied or of any member of his family;
- (b) the necessary furniture, other than beds, and household utensils in so far as they do exceed in value the sum of four hundred rand;
- (c) stock, tools and agricultural implements of a farmer in so far as they do not exceed in value the sum of four hundred rand;
- (d) any food or drink sufficient to meet the needs of such person and the members of his family for one month;
- (e) tools and implements of trade in so far as they do not exceed in value the sum of four hundred rand;
- (f) professional books, documents or instruments necessarily used by the debtor in his profession in so far as they do not exceed in value the sum of four hundred rand;

Provided that the Court, in exceptional circumstances and on such conditions as it may determine, may increase the amount specified in paragraph (b), (c), (e) and (f) to not more than double the amount therein mentioned.



### **Offences Relating to Execution**

26. (1) Any person who —

- (a) obstructs the Sheriff or a deputy sheriff or a Sheriff's agent in the execution of his duty;
- (b) being aware that goods are under arrest, interdict or attachment by the court, makes away with or disposes of those goods in a manner not authorized by law, or knowingly permits those goods, if in his possession or under his control, to be made away with or disposed of in such a manner;
- (c) being a judgment debtor and being required by the Sheriff or a deputy sheriff or a Sheriff's agent to point out property to satisfy a warrant issued in execution of judgment against such person —
  - (i) falsely declares to the Sheriff or deputy sheriff or a Sheriff's agent that he possesses no property or insufficient property to satisfy the warrant; or
  - (ii) although knowing of such property neglects or refuses to point out such property or deliver it to the Sheriff or deputy sheriff or a Sheriff's agent when required to do so; or
- (d) being a judgment debtor refuses or neglects to comply with any requirement of the Sheriff or a deputy sheriff or a Sheriff's agent in regard to the delivery of documents in his possession or under his control relating to the title of immovable property under execution;

shall be guilty of an offence and liable to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months.

(2) For the purposes of this section, "Sheriff's agent" means a person mentioned in subsection (2) of section 23.

### **Jurisdiction of Registrar**

27. When the Chief Justice and every puisne judge are absent from Botswana the Registrar may exercise jurisdiction in respect of the following matters —

- (a) in criminal matters applications to the Court or a Judge of the High Court for bail in terms of Part VIII of the Criminal Procedure and Evidence Proclamation (Chapter 18);
- (b) in civil matters —
  - (i) applications to sue by edictal citation or to found jurisdiction by attachment;
  - (ii) applications for the appointment of a curator of any property;

**B.158**

- (iii) applications for the arrest and interdict of persons or things;
- (iv) applications for provisional sentence;
- (v) applications for the grant of a provisional order for the sequestration of an insolvent estate;
- (vi) where any party is in default or where consent to judgment is filed by a defending party;
- (vii) applications for admission and enrolment by advocates, attorneys, notaries and conveyancers;
- (viii) increases under the provisions of the proviso to section 25:

Provided that —

- (A) the Registrar shall not exercise jurisdiction under paragraph (b) (vi) in matrimonial matters;
- (B) when the Registrar exercises jurisdiction under this section there shall be a right of appeal to a Judge in Chambers except under paragraph (b) (vi) where consent to judgement is filed.

**Rules of Court**

28. The Chief Justice may make Rules of Court regulating the proceedings of the High Court, and, without derogating from the generality of the foregoing, such rules may provide for the following matters —

- (a) the pleading, practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be payable, their amount and the method and time of payment of the same;
- (b) the expences of parties and witnesses, their amount and the method and time of payment of the same;
- (c) the fees and costs of advocates, attorneys and notaries public, and the amount, taxation and recovery of the same;
- (d) the duties and powers of the several officers of the Court;
- (e) regulating the sittings of the Court and of the Judges, whether sitting in chambers and the times for the holding of Courts;
- (f) providing that in any matrimonial matter the judge may, if the parties agree, interview them privately in his chambers in the presence of their legal advisers for the purpose of discussing with them a settlement of the matter or any other matter affecting the future conduct of the proceedings;
- (g) providing that in any case affecting the custody of children, the judge may, if he thinks fit, interview such children privately in his chambers;

- (h) regulating and prescribing the procedure on appeals or reviews from any court or person to the High Court;
- (i) regulating and prescribing the procedure in connection with interlocutory applications;
- (j) subject to the provisions of section 15, regulating and prescribing the manner of dealing with commissions rogatoire, letters of request and documents for service from foreign countries;
- (k) allowing and regulating in any proceedings or in any application in connection therewith at any stage of any proceedings, the proof of any particular facts by affidavit, and regulating the examination of witnesses by interrogatories or otherwise, and allowing the same in evidence;
- (l) providing for the appointment of commissioners to take evidence and to examine witnesses, and the examination of witnesses *de bene esse*, and allowing the same in evidence;
- (m) prescribing the fees to be paid in respect of service or execution of any process of the Court or in respect of the summoning of persons to answer interrogatories;
- (n) prescribing and regulating manner of determining the amount of security to be given in any case where security is required to be given and the form and manner in which such security may be given;
- (o) prescribing and regulating the hours during which the office of the registrar shall be open for the transaction of business;
- (p) prescribing and regulating the manner of recording or noting of evidence;
- (q) prescribing and regulating the proceedings of the Sheriff and other officers of the Court;
- (r) prescribing the tariff of costs and expenses which may be allowed in respect of service or execution of any process referred to in paragraph (m) or to persons appearing to answer interrogatories;
- (s) providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or to be brought for the purpose of delay;
- (t) the time within which any requirement of the rules is required to be complied with;
- (u) prescribing the circumstances in which an appeal shall be deemed to have been abandoned;
- (v) generally making provision in regard to any matter in respect of which, in the opinion of the Chief Justice it is necessary or desirable to make provision in

**B.160**

order to facilitate the proper despatch and conduct of the business of the Court.

**Repeal and Savings**

29. (1) The High Court Proclamation (Chapter 4) is hereby repealed.

(2) Anything done under any provisions of the High Court Proclamation shall be deemed to have been done under the corresponding provisions of this Act; and any security given under the Proclamation shall remain in full force and effect.

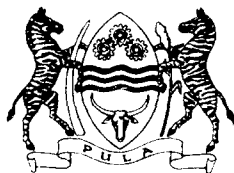
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B. 161

**THE WILD BIRDS PROTECTION (REPEAL) ACT, 1967**

No. 36



of 1967.

**AN ACT TO REPEAL THE WILD BIRDS PROTECTION PROCLAMATION**

Date of Assent: 11.10.67

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

**Short Title and Date of Commencement**

1. (1) This Act may be cited as the Wild Birds Protection (Repeal) Act, 1967.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

**Repeal of Cap. 142**

2. The Wild Birds Protection Proclamation (Cap. 142) is repealed.

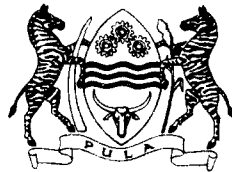
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



**THE REFUGEES (RECOGNITION AND CONTROL) (AMENDMENT) ACT, 1967**

No. 37



of 1967

**AN ACT TO AMEND THE REFUGEES (RECOGNITION AND CONTROL) ACT, 1967, FOR THE PURPOSE OF GIVING EFFECT TO CERTAIN PROVISIONS OF THE UNITED NATIONS CONVENTION RELATING TO THE STATUS OF REFUGEES**

Date of Assent: 27.9.67.

Date of Commencement: 13.10.67.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Refugees (Recognition and Control) (Amendment) Act, 1967.

**Amendment of Section 2 of Act No. 8 of 1967**

2 Section 2 of the Refugees (Recognition and Control) Act, 1967 (hereinafter referred to as the principal law) is amended in subsection (1) —

(a) by the insertion after the definition of "Committee" of the following definition —

"Convention" means the United Nations Convention Relating to the Status of Refugees of the 28th July, 1951, as amended from time to time by any international agreement; but does not include any provisions thereof not binding under public international law upon the Republic of Botswana;"

(b) by the deletion of the definition of "political refugee" and the substitution of —

"political refugee" has the meaning assigned thereto in the Schedule;"

**B.164**

**Replacement of Section 4 of Act No. 8 of 1967**

3. Section 4 of the principal law is repealed and the following section substituted therefor —

**“Enquiry by Committee**

4. (1) Unless the Minister otherwise directs, a Committee shall hold an enquiry into the case of any immigrant who on presenting himself to an immigration officer in terms of section 6 of the Immigration Law claims to be a political refugee.

(2) A Committee shall also hold an enquiry into the case of any other immigrant who in the opinion of the Minister is in Botswana in such circumstances as indicate he may be a political refugee.

(3) After holding an enquiry in terms of this section a Committee shall report thereon to the Minister.”

**Amendment of Section 5 of Act No. 8 of 1967**

4. Section 5 of the principal law is amended in subsection (2) by the addition of the following proviso —

“Provided that the immigrant who is the subject of the enquiry shall be notified thereof and be given the opportunity of appearing before the Committee and of making representations concerning his case to it.”

**Amendment of Section 9 of Act 8 of 1967**

5. Section 9 of the principal law is amended in subsection (1) by the deletion of “the refugee will not be subject to political persecution.” and the substitution of —

“the life or freedom of the refugee will not be threatened on account of his race, religion, nationality or membership of a particular social group or political opinion;

Provided that nothing in this subsection shall prevent the removal, under the provisions of any law, of a recognized refugee to any country whatsoever where, in the opinion of the Minister, such removal is desirable on the grounds of national security or of public order or where the recognized refugee has been convicted by a final judgment of any court of a serious crime which, in the opinion of the Minister, indicates that the recognized refugee constitutes a danger to the community.”

**Amendment of Section 13 of Act No. 8 of 1967**

6. Section 13 of the principal law is amended by the insertion after “shall not” of “unless the Minister by order in writing otherwise directs”.



**Addition of Section 15 to Act No. 8 of 1967**

7. The principal law is amended by the addition of the following section —  
**“Prosecutions of Political Refugees under Immigration Law to Require Consent of the Attorney-General**

15. No prosecution for a contravention of the Immigration Law shall be instituted or continued against —

(a) an immigrant who is summoned to appear before a Committee under the provisions of section 5(1) (a), pending the decision of the Minister under section 8(1); or

(b) a recognized refugee;

without the written consent of the Attorney-General, and in giving or withholding such consent the Attorney-General shall have regard to the provisions of the Convention.”

**Addition of Schedule to Act No. 8 of 1967**

3. The principal law is amended by the addition of the following Schedule—

**“SCHEDULE**

(Section 2)

*Definition of the term “political refugee”*

1. Subject to the provisions of this Schedule, “political refugee” means a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, 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; or who, not having a nationality and being outside the country of his former habitual resident is unable or, owing to such fear, is unwilling to return to it.

2. In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.”

Passed by the National Assembly this day, the 31st August, 1967.

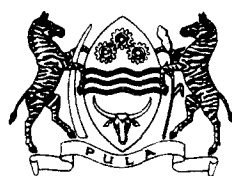
G.T. MATENGE,  
Clerk of the National Assembly.



B.167

**THE STATISTICS ACT, 1967**

No. 38



of 1967

**TABLE OF CONTENTS**

1. Short Title
2. Interpretation.
3. Matters as to which Statistics may be collected.
4. Census of Production, Distribution, Agriculture, etc.
5. Duty of Prescribed Person.
6. Duty of Persons to Answer Questions.
7. Compilation, Analysis, Tabulation and Publication of Statistics.
8. Restriction on Publication.
9. Limitations on Right to Require Information.
10. Letters etc. as to Statistics to be Transmitted Post Free.
11. Punishment of Officers for Certain Acts.
12. Duty to Notify Undertakings.
13. Authentication of Forms, Notices and Other Documents.
14. Regulations.
15. Oath of Secrecy.
16. Offences

**SCHEDULE**

**AN ACT TO MAKE PROVISION FOR THE COLLECTION OF STATISTICAL DATA**

Date of Assent: 11.10.67.

Date of Commencement: 13.10.67.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Statistics Act, 1967.

## B.168

### Interpretation

2. (1) In this Act, unless the context otherwise requires —

“authorized officer” means an officer in the public service or any other person authorized in writing by the Director to perform any function under this Act;

“census” includes a sample survey;

“Director” means the Director of the Central Statistics Office;

“statistics” means statistics which may be collected in terms of section 3;

“undertaking” means any undertaking by way of trade or business whether or not the trade or business is carried on for profit and shall include the undertaking of any local or other public authority or statutory corporation and any farmer.

(2) Where an undertaking is wholly or partially carried on by means of branches situated at several premises, each branch of the undertaking shall, for the purposes of this Act, be deemed to be an undertaking unless the Minister otherwise directs.

### Matters as to which Statistics may be collected

3. (1) Subject to the provisions of this Act and to the directions of the Minister, statistics may be collected at such times, in such places or areas and in respect of such periods as may be prescribed, in relation to any aspect of all or any of the following matters, namely —

- (a) population; housing; vital occurrences; morbidity; temporary or permanent migration to, from or within the Republic;
- (b) primary production, including farming, forestry, fishing and mining operations, which shall also include farming, the raising and breeding of animals, whether domesticated or wild, hunting and trapping, the gathering of animal products and of unprepared forest products; breeding of fish; quarrying; the exploitation of deposits of soil, sand, clay and gravel;
- (c) secondary production, including manufacture, assembly and repair; the generation and distribution of electricity and the production and distribution of gas; the supply of water; the operation of abattoirs; the publishing of newspapers, periodicals, books and other printed-matter;
- (d) construction and related activities, including civil engineering works and repairs; demolition of buildings and structures and the clearing and levelling of land; soil erosion and water conservation works and borehole sinking;
- (e) internal trade, including the distribution of goods; external trade;
- (f) the provision of services, of whatever nature, to consumers in the trade, the State and private sectors of the economy, including banking, finance

and insurance ; land, sea and air transport ; travel and tourism ; communication ; storage ; catering service ; accomodation ; health and health institutions ; education, training and instruction ; personal and professional services ; recreation and amusement ; laundry and cleaning service ; sanitary service ;

- (g) activities of associations promoting business, professional or national interests ;
- (h) prices of goods and services ; hiring of accomodation, including rents and charges for accommodation ;
- (i) national accounts ; capital formation ; savings and investment ; balance of payments and flow of funds ;
- (j) ownership, development, occupation, use and transfer of land and other immovable property, mortgages ;
- (k) labour relations, including trade unions, employers' organizations, industrial councils and industrial disputes ;
- (l) employment ; unemployment ; remuneration ; service hours and conditions ;
- (m) the public administrative, financial, industrial and commercial activities (not elsewhere specified) of the Government and local authorities and the activities of institutions established by them or by or in pursuance of any law ;
- (n) injuries ; accidents ;
- (o) social matters and activities, of whatever nature including religious and welfare organizations aid societies, sports clubs and cultural societies crime, administration of justice and enforcement of law ;
- (p) family and household surveys, including surveys of family and household budgets ; and
- (q) any other matter prescribed by the Minister by notice in the Gazette .

(2) The statistics which may be collected under subsection (1) may include financial statistics in relation to any matters mentioned therein.

(3) The Minister may enter into arrangements with the Government of any neighbouring territory as to any matter necessary or convenient for the purposes of carrying out his functions under the Act.

#### **Census of Production, Distribution, Agriculture, etc.**

4. (1) The Minister may for the purpose of providing from time to time general statistical surveys of the state of the economy or any sector thereof, take a census of —

- (a) production ;
- (b) distribution and other services ;

## B.170

(c) farming, including –

- (i) the situation, area, description and extent of land used for farming, and the payment of rates and taxes thereon ;
- (ii) the names and addresses of the owner or occupiers of the land, whether the land or any part thereof is let, if let, the area leased and the rental obtained ;
- (iii) the character and use of different parts of the land, the time at which any use thereof was begun or will become fully effective and their produce at any time during the period to which the census relates ;
- (iv) fixed and other equipment, livestock, and the stocks of farming produce and requisites held in respect of the land, and the provision and maintenance of such equipment, livestock and requisites and the provision of farming services for the benefit of the land ;
- (v) the methods and operations used on the land, the marketing or other disposal of the produce thereof, any payment received under any enactment in respect of such produce ;
- (vi) the number and description of persons employed on, or employed by the occupier in disposing of the produce of, the land and the remuneration paid to, the hours worked by, persons so employed or persons of different description.

(2) Any person carrying on an undertaking may be required by notice given in such form as may be prescribed to furnish returns for the purpose of a census under this section ; and together with such notice he shall be issued with such forms as are required for the census.

(3) Any person carrying on an undertaking may be required to furnish returns for the purposes of a census under this section ; and the census may either be taken to cover all undertakings in the field of production, distribution and other services, or farming, or may be confined to such classes or descriptions of those undertakings as may be prescribed ; and without prejudice to the generality of the provisions of this subsection, the Minister may by notice in the Gazette exempt from the obligation to furnish returns for the purposes of such census, either wholly or to the prescribed extent, and either unconditionally or subject to prescribed conditions, any persons or any prescribed class or description of persons.

(4) The Minister shall prescribe the matters about which a person may be required to furnish returns for the purposes of any census under this section, the time within which any return is required to be made, and the period to which any census relates.

(5) A census under this section may be conducted in conjunction with a census under the provisions of the Census Proclamation (Chapter 45).

#### **Duty of Prescribed Person**

5. For the purpose of enabling statistics to be collected otherwise than by way of census taken under the provisions of section 4 every prescribed person shall, when required by the Director or an authorized officer furnish, in the form (if any) supplied by that officer, or in the absence of such form, or where the person concerned is unable for any reason to complete such form, verbally, the particulars or information required by the relevant regulations relating to the matter in respect of which such particulars are or such information is so required.

#### **Duty of Persons to Answer Questions**

6. Every person shall, to the best of his knowledge and belief, answer, all such questions put to him by the Director or any authorized officer as are necessary for obtaining any information required for the collection of statistics in accordance with the provisions of section 4 or 5.

#### **Compilation, Analysis, Tabulation and Publication of Statistics**

7. (1) The Director shall cause statistics collected in pursuance of the provisions of this Act to be compiled, analysed and tabulated and may, subject to the provisions of this Act and the directions of the Minister, cause statistics or abstracts thereof to be published with or without observations thereon and in such manner as he may determine.

(2) Anything published in accordance with the provisions of subsection (1) shall be laid before the National Assembly within fourteen days of publication.

#### **Restriction on Publication**

8. Except for the purpose of a prosecution under this Act —

- (a) no individual return or part thereof, made for the purpose of this Act;
- (b) no answer given to any question put for the purpose of this Act;
- (c) no report, abstract or other document, containing particulars comprised in any such return of answers so arranged as to enable identification of such particulars with any person, undertaking or business,

shall be published, admitted in evidence in any civil or criminal proceedings or shown to any person not employed in the execution of a duty under this Act unless the previous consent in writing thereto has been obtained from the person making such return or giving such answer or, in the case of an undertaking or business, from the owner for the time being of that undertaking or business;

Provided that nothing in this section shall prevent or restrict the publication of any such report, abstract or other document without such consent where the particulars in such report, abstract or other document, enable identification merely by reason of the fact that the particulars relate to an undertaking or business which

## **B.172**

is the only undertaking or business within its sphere of activities, so however, that in no case shall such particulars enable identification of the costs of production, the capital employed or profits arising in any such undertaking or business.

### **Limitations on Right to Require Information**

9. (1) Nothing contained in this Act shall affect or be deemed to affect any enactment relating to the disclosure or non-disclosure of any official, secret or confidential information, evidence or document, and any person required by the Director or any authorized officer to supply any information, to give any evidence or to produce any document, shall be entitled in respect of such information, evidence or document to plead the same privilege before the Director or an authorised officer, as before a Court of competent jurisdiction.

(2) No person shall be required to supply any information under this Act which involves the disclosure of any technical process or trade secret in or relating to the undertaking of which he is the owner or in the conduct or supervision of which he is engaged.

(3) No person shall be required under the provisions of this Act to furnish any balance sheet or profit and loss account :

Provided that the provisions of this subsection shall not prevent the requiring of information by reason only that it is or might be contained as an item in such a balance sheet or account.

### **Letters etc, as to Statistics to be Transmitted Post Free**

10. All letters, parcels and packets and all telegraphic messages relating to statistics shall, if marked with the words "Statistics" and "On Botswana Government Service", and when transmitted to or by the Director or an authorised officer be free of postal telegraphic or other charges made for their conveyance or transmission.

### **Punishment of Officers for Certain Acts**

11. (1) Any person, being a person employed in the execution of any function under this Act, who —

- (a) puts an improper or offensive question to any person, or
- (b) knowingly makes false return or compiles for issue any false statistics or information, or
- (c) asks, receives or takes, in respect of or in connection with his employment under this Act from any person, other than an officer of the Government duly authorised thereto, any payment or reward ; or
- (d) by virtue of such employment becomes possessed of any information which might exert influence upon or effect the market value of any share, interest, product or article, and before such information is made public, directly or



indirectly uses such information for personal gain ; or

- (e) divulges or communicates to any person otherwise than in the ordinary course of such employment any information furnished in pursuance of the provisions of this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months or both such fine and imprisonment.

#### **Duty to notify Undertakings**

12. If the Director publishes, by advertisement in the Gazette, and in such newspapers as may appear to him to be sufficient for notifying the persons concerned a list of the classes or descriptions of undertakings in relation to which returns will be required for the purposes of a particular census or inquiry under this Act, it shall be the duty of every person carrying on an undertaking of any such class or description as aforesaid who has not received notice under section 4 (2) or who has not been required to supply particulars or information under the provisions of section 5 in relation to that census or inquiry to inform such person as may be specified in the advertisement within such period, being not less than twenty-one days after the date of publication of the advertisement, as may be specified therein, that he is carrying out an undertaking as aforesaid, and to give to that person such prescribed particulars of the undertaking as may be so specified.

#### **Authentication of Forms, Notices and Other Documents**

13. Every form, notice or other document given or issued by an officer under this Act shall be sufficiently authenticated if the name of the officer by whom it is given or issued has been printed or stamp thereon.

#### **Regulations**

14. (1) The Minister may make regulations either generally or with respect to any class or description of persons or undertakings and in relation to any class or description of statistics —

- (a) prescribing anything which, in terms of this Act is to or may be prescribed ;
- (b) prescribing the forms and documents to be used in connexion with the collecting of statistics ;
- (c) prescribing the particulars and information to be furnished in relation to any matter in respect of which statistics may be collected under this Act ;
- (d) prescribing the manner and form in which, and the times and places at which, and the persons by whom and to whom statistical information shall be furnished ;
- (e) prescribing the fees payable by persons requiring statistical information from the Government ;

## **B.174**

(f) providing for the appointment of advisory committees and the fees or allowances payable to their members ;

(g) generally for the better carrying out of the provisions of this Act.

(2) Any regulation may provide that any person who, without reasonable cause, fails to comply therewith shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or, in the case of a continuing failure, to a fine not exceeding two rand for every day during which such failure continues.

### **Oath of Secrecy**

15. Every authorized officer other than an officer in the public service shall before entering upon his duties make and subscribe the oath or affirmation set out in the Schedule before a Commissioner of Oaths or before the Director who is hereby authorized to administer such oath.

### **Offences**

16. Any person who —

(a) hinders or obstructs the Director or an authorized officer in the execution of any of his functions under this Act ; or

(b) refuses or neglects —

(i) to fill in and supply the particulars required in any return, form or other document which by this Act he is required to fill in and supply ; or

(ii) to answer any questions or inquiries put to him under the authority of this Act ; or

(c) without lawful authority destroys, defaces or mutilates any return, form or other document containing particulars collected under this Act ;

(d) makes in any form or document filled in or supplied in pursuance of this Act or in answer to any question put to him under authority of this Act, any statement which is false in any material particular, or having no reasonable ground for believing the same to be true ;

(e) publishes or shows anything in contravention of the provisions of section 8 of the Act ;

(f) contravenes the provisions of section 12 unless he can show he did not know and had reasonable cause for not knowing that he was required to give information or particulars under the provisions of that section ;

(g) discloses or makes known any matter or thing in contravention of an oath or affirmation made under the provisions of section 15 ;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

SCHEDULE

I, ..... do swear  
(solemnly affirm) that I will faithfully and honestly fulfil my duties as an authorized officer under the Statistics Act, 1967, in conformity with the requirements of that Act and that I will not, without authority in writing by the Director of the Central Statistics Office, disclose or make known any matter or thing which comes to my knowledge by reason of my employment as such.

.....

SWORN to (Affirmed) and SIGNED this .....

day of ..... 19.....

BEFORE ME

.....  
Commissioner of Oaths/Director of  
the Central Statistics  
Office.

Passed by the National Assembly this day the 31st August, 1967.

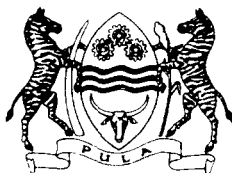
G.T. MATENGE,  
Clerk of the National Assembly.

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**B.177**

**THE LIQUOR (AMENDMENT) ACT, 1967**

No. 39



of 1967

**AN ACT TO AMEND THE LIQUOR PROCLAMATION**

Date of Assent: 11.10.67.

Date of Commencement: 13.10.67.

ENACTED by the Parliament of Botswana.

## **B.178**

### **Short Title**

1. This Act may be cited as the Liquor (Amendment) Act, 1967.

### **Amendment of Section 2 of Proclamation No. 69 of 1960**

2. Section 2 of the Liquor Proclamation, 1960 (hereinafter referred to as the principal law) is amended —

- (a) in the definition of “duplicate original” by the deletion of “letter of exemption or” wherever it appears;
- (b) by the deletion of the word “kaffir” wherever it appears and the substitution of “traditional”
- (c) by the deletion of the definition of “letter of exemption”;
- (d) by the deletion of the definition of “Minister”;
- (e) in the definition of “permit” by the insertion after ““permit”” of “, in section *twenty-one*,”;
- (f) by the deletion of the definition of “President’s letter of exemption”.

### **Amendment of Section 3 of Proclamation No. 69 of 1960**

3. Section 3 of the principal law is amended in subsection (2) by the deletion of paragraph (c) and the substitution of —

- “(c) the sale of intoxicating liquor to the holder of a licence as defined in section *two* by the holder of a wholesaler licence issued under the Trading Act, 1966;”.

### **Amendment of Section 4 of Proclamation No. 69 of 1960**

4. Section 4 of the principal law is amended in subsection (1) by the deletion of paragraph (d) and the substitution of —

- “(d) Bar Liquor Licences;  
(e) Restaurant Liquor Licences;  
(f) Temporary Liquor Licences.”.

### **Insertion of Sections 7A and 7B in Proclamation No. 69 of 1960**

5. The principal law is amended by the insertion of the following sections after section 7 —

**“Bar Licence**

7A. Subject to the provisions of this Proclamation, a bar liquor licence shall authorize the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers, in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day.

**Restaurant Licence**

7B. A restaurant liquor licence shall authorize the sale, on the premises of the restaurant specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers, to any person *bona fide* taking an ordinary meal in the restaurant which has been purchased thereat, and the consumption with such meal on all days between the hours of twelve o'clock, noon, and half-past two o'clock in the afternoon and between six and ten o'clock in the evening.”.

**Insertion of Section 8A in Proclamation No. 69 of 1960**

6. The principal law is amended by the insertion of the following section after section 8 —

**“Variation of Licensing Hours**

8A. Notwithstanding anything to the contrary in this Part the Minister may, by order in the *Gazette*, authorize the sale of liquor by a licensee or any class of licensees at times other than those prescribed in sections 5 to 7B inclusive.”

**Amendment of Section 10 of Proclamation No. 69 of 1960**

7. Section 10 of the principal law is amended by the deletion of subsection (5) and the substitution of —

“(5) No bar liquor licence shall be issued in respect of any premises situated within a radius of ten miles of any premises in respect of which an hotel liquor licence subsists:

Provided that nothing in this subsection shall prevent the renewal of a bar liquor licence.

(6) No licencing authority shall consent to the issue of a restaurant liquor licence unless it is satisfied that the applicant keeps or proposes to keep upon the premises in respect of which an applicant is made, a *bona fide* restaurant at which ordinary meals are regularly provided for guests, and that the premises afford reasonable accommodation for persons taking meals at such restaurant.

## **B.180**

(7) No temporary liquor licence shall be issued to persons other than the holders of an hotel liquor licence or a bar liquor licence.”.

### **Amendment of Section 11 of Proclamation No. 69 of 1960**

8. Section 11 of the principal law is amended in subsection (1) by the addition of the following proviso —

“Provided that, subject to the provisions of subsection (2), an application for the renewal of a licence shall be heard during the first two weeks of the month of November.”.

### **Amendment of Section 13 of Proclamation No. 69 of 1960**

9. Section 13 of the principal law is amended in subsection (1) by the repeal of paragraph (b) and the substitution of —

“(b) the officer who deposited a report on the application in terms of paragraph (b) of subsection (2) of section *twelve* shall appear and tender the report:

Provided that such report shall, if it contains nothing prejudicial to the applicant, be admissible in evidence before the licensing court notwithstanding that the officer does not appear and tender the report; and where the report is so admissible the officer shall not be required to appear before the licensing court unless that court otherwise directs.”.

### **Amendment of Section 14 of Proclamation No. 69 of 1960**

10. Section 14 of the principal law is amended in subsection (2) by the deletion of “fourteen” and by the substitution of “seven”.

### **Amendment of Section 15 of Proclamation No. 69 of 1960**

11. Section 15 of the principal law is amended in subsection (1) by the insertion after “licensing authority” where the expression first appears of, “after taking into consideration the reports referred to in section 12 (2) and any other evidence relevant in the matter ”.

### **Amendment of Section 18 of Proclamation No. 69 of 1960**

12. Section 18 of the principal law is amended by the addition of the following subsection —

“(6) A covering order shall be valid for a period of one month:

Provided that the licensing officer may extend the order for periods not exceeding one month at a time where he is satisfied that for reasons other than the fault of the applicant, the application for transfer has not been determined.”.



**Amendment of Section 22 of Proclamation No. 69 of 1960**

13. Section 22 of the principal law is amended by the deletion of subsections (2) and (3).

**Repeal of Sections 23 and 24 of Proclamation No. 69 of 1960**

14. The principal law is amended by the repeal of sections 23 and 24.

**Amendment of Section 32 of Proclamation No. 69 of 1960**

15. The principal law is amended in section 32 by the deletion of subsection (1) and by the substitution of —

“(1) Any licensee who permits —

(a) drunkenness; or

(b) violent, disorderly or obscene conduct; or

(c) any person to entice, solicit or importune another to have carnal intercourse with him or her or to commit an act of indecency;

on the licensed premises shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.”.

**Amendment of Section 33 of Proclamation No. 69 of 1960**

16. The principal law is amended in section 33 by the deletion of subsection (1) and by the substitution of —

“(1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensee or his manager, agent or servant may refuse to admit to, or may expel from, the licensed premises any person who —

(a) is drunk; or

(b) is violent, disorderly or who conducts himself in an obscene manner;  
or

(c) entices, solicits or importunes another to have carnal intercourse with him or her or to commit an act of indecency;

or whose presence on his premises would subject the licensee to a penalty under this Proclamation or any other law.”

**Amendment of Section 36 of Proclamation No. 69 of 1960**

17. Section 36 of the principal law is amended in subsection (1) by the deletion of paragraph (b).

**Amendment of Section 40 of Proclamation No. 69 of 1960**

18. Section 40 of the principal law is amended by the deletion of “and choco-

**B.182**

lates'' and by the substitution of'', chocolates, camera films, picture, postcards and souvenirs.''.

**Repeal of Parts VI and VII of Proclamation No. 69 of 1960**

19. The principal law is amended by the repeal of Parts VI and VII.

**Amendment of Section 52 of Proclamation No. 69 of 1960**

20. Section 52 of the principal law is amended —

(a) by the deletion in the headnote of "Limited Letters of Exemption and";

(b) by the deletion of subsection (1) and by the substitution of —

"(1) Every licensee who sells intoxicating liquor under the authority of a permit shall —

(a) forthwith enter or cause to be entered in ink on the appropriate part of the permit and on the duplicate original thereof, an accurate statement of the kind and quantity of liquor supplied, the date and time of supply, and the signature of the person making the entry; and

(b) return the permit to the holder."

(c) in subsection (2) by

(i) the deletion of "of a letter of exemption under section *forty-six* or";

(ii) the deletion of "letter of exemption or".

(d) in subsection (3) by the deletion of "letters of exemption and".

**Amendment of Section 53 of Proclamation No. 69 of 1960**

21. Section 53 of the principal law is amended —

(a) by the deletion in the headnote of "Letter of Exemption or";

(b) in subsection (1) by —

(i) the deletion of "a letter of exemption or";

(ii) by the deletion of "letter of exemption or" wherever it appears.

**Amendment of Section 54 of Proclamation No. 69 of 1960**

22. Section 54 of the principal law is amended —

(a) in the headnote by the deletion of "Permit or Letter of Exemption", and the substitution of "or Permit";

(b) by the deletion of "permit or letter of exemption" and the substitution of "or permit".

**Amendment of Section 56 of Proclamation No. 69 of 1960**

23. Section 56 of the principal law is amended by the deletion of "permit or

letter of exemption'' wherever it appears and by the substitution of "or permit".

**Amendment of Section 61 of Proclamation No. 69 of 1960**

24. Section 61 of the principal law is amended —

- (a) by the deletion in the headnote of "or Letter of Exemption";
- (b) by the deletion of "letter of exemption or" wherever it appears.

**Amendment of Section 62 of Proclamation No. 69 of 1960**

25. Section 62 of the principal law is amended in subsection (2) by the deletion of paragraphs (c) and (d).

**Amendment of Section 63 of Proclamation No. 69 of 1960**

26. Section 63 of the principal law is amended —

- (a) in subsection (1) by the deletion of "or kaffir beer" wherever it appears;
- (b) in subsection (2) by the deletion of "kaffir beer,".

**Repeal of Section 68 of Proclamation No. 69 of 1960**

27. Section 68 of the principal law is repealed.

**Replacement of First Schedule of Proclamation No. 69 of 1960**

28. The First Schedule of the principal law is repealed and the following Schedule is substituted —

**" FIRST SCHEDULE  
(Section 2)**

**FEES**

The fees set out in the second column hereunder shall be paid in respect of the corresponding matters set out in the first such column —

<i>First Column</i>	<i>Second Column</i>
1. Railway Administration Exemption Fee	R250
2. Issue of Licence	
(a) New or renewal hotel liquor licence	R100
(b) New or renewal club liquor licence	R50
(c) New or renewal bottle store licence	R200
(d) New or renewal bar liquor licence	R100

**B.184**

*First Column*

- (e) New or renewal restaurant liquor licence
- (f) Temporary liquor licence
- 3. Transfer or removal of licence during its period of validity  
(Section 9)
- 4. Extension of permitted hours  
(Section 16)
- 5. Appeal to the President  
(Section 9 (5))
- 6. Covering Order  
(Section 18)
- 7. Issue of duplicate licence or permit (Section 54)

*Second Column*

- R50
- R2 per day or part thereof.
- One-half of the fee payable for the issue of a new licence of the kind in question.
- R2 per hour or part thereof
- R200
- One-half of the fee payable for the issue of a new licence of the kind in question.
- R1 "

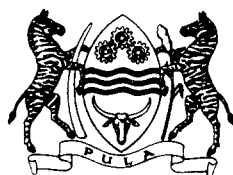
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

**B.185**

**THE WATER ACT, 1967**

No. 40



of 1967

**ARRANGEMENT OF SECTIONS**

**PART I**

*Section*

**PRELIMINARY**

1. Short Title and Commencement
2. Interpretation
3. Establishment of Water Apportionment Board

**PART II**

**OWNERSHIP OF AND INHERENT RIGHT TO THE USE OF PUBLIC WATER**

4. Ownership and Use of Public Water and Construction or Works
5. Casual Use of Water in a Public Stream etc.
6. Use etc. of Water by Owners and Occupiers of Land
7. Right to Water for Mining Purposes
8. Right to Water for Forestry Purposes
9. Prohibition of Use of Water Except with Lawful Authority
10. Determination of Certain Existing Rights
11. No Prescriptive Rights to Use of Water

**B.186**

### **PART III**

#### **RECORDING OF EXISTING RIGHTS**

12. Application for Registration of Existing Rights
13. Registrar to Record Existing Rights
14. Certain Existing Rights Not Subject to the Provisions of this Part

### **PART IV**

#### **GRANT OF WATER RIGHTS**

15. Grant of Water Rights
16. Rights May be made Appurtenant to Land
17. Conditions Implied in certain Rights
18. Rights Conditional on Construction of Works

### **PART V**

#### **REVISION, VARIATION, DETERMINATION AND DIMINUTION OF WATER RIGHTS**

19. Inadequacy of Water Supply for Satisfaction of Water Rights
20. Suspension or Variation of Rights on Account of Drought etc.
21. Where Quantity Unspecified Water Board may specify Quantity
22. Variation of Water Rights with Consent
23. Determination for Breach of a Condition
24. Determination or Diminution for Non-use
25. Determination or Diminution for Public Purposes

### **PART VI**

#### **MISCELLANEOUS POWERS**

26. Power to Create Servitudes
27. Right to Call for Information
28. Power to Inspect Works and Require Reparation, Etc.
29. Power to Require Demolition of Unlawful Works
30. Power to Establish Hydrological Stations and make Surveys

**PART VII**

**APPEALS**

31. Appeals to the Minister

**PART VIII**

**MISCELLANEOUS**

32. Registration  
33. Delegation of the Functions of Water Registrar and Board  
34. Act to Bind the State  
35. Power to Make Rules and Regulations  
36. Pollution of Public Water etc.  
37. Penalties  
38. Repeal

**AN ACT TO DEFINE THE OWNERSHIP OF ANY RIGHTS TO THE USE OF  
WATER; TO PROVIDE FOR THE GRANT OF WATER RIGHTS AND SERVITUDES;  
AND TO MAKE PROVISION INCIDENTAL THERETO.**

Date of Assent: 19.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

**PART I**

**PRELIMINARY**

**Short Title and Commencement**

1. This Act may be cited as the Water Act, 1967, and shall come into operation on a date to be appointed by the Minister by notice in the *Gazette*.

**Interpretation.**

2. (1) In this Act unless the context otherwise requires –  
“Board” means the Water Apportionment Board;

**B.188**

“borehole” does not include any borehole constructed in prospecting for minerals;

“domestic purposes” includes the watering, spraying and dipping of stock;

“effluent” does not include water discharged under the provisions of sections 7 (3) or 17 (1) (a) or which has been used for irrigation;

“existing right” means any right to public water –

(a) which at the commencement of this Act has been lawfully acquired, is possessed by, and is being beneficially exercised by, any person; or

(b) lawfully acquired by any person before the commencement of this Act for the purpose of supplying water to the public;

“local authority” means a town or district council;

“public stream” means a watercourse of natural origin wherein water flows, whether or not such watercourse or any portion thereof is dry for any period or whether or not its conformation has been changed by artificial means;

“public water” means all water flowing over the surface of the ground or contained in or flowing from any river, spring or stream or natural lake or pan or swamp or in or beneath a watercourse and all underground water made available by means of works, but does not include any water which is used solely for the purposes of extracting mineral substances therefrom or water which has been lawfully appropriated for use;

“servitude” means a right to enter on the land of another for the purpose of constructing or maintaining works thereon, or storing the water thereon, or carrying water under, through or over such land, or for all or any of such purposes;

“underground water” means water naturally stored or flowing below the surface of the ground and not apparent on the surface of the ground;

“Water Registrar” means the person vested by the Minister with the functions of Water Registrar for the purposes of this Act.

“water right” means a water right granted or deemed to have been granted under this Act and, subject to the provisions of section 10, includes an existing right;

“well” does not include a borehole;

“works” includes canals, channels, reservoirs, embankments, weirs, dams, wells, boreholes, pumping installations, pipelines, sluice gates, filters, sedimentation tanks or other work constructed for or in connection with the impounding, storage, passage, drainage, control or abstraction of public water, or the development of water power, or the filtration or purification of water, or the protection of rivers and streams against erosion or siltation or flood control, or the protection of any works, or the use of public water for any purpose, or the conservation of rain water.



(2) A reference to a unit of measurement in this Act shall be construed as a reference to English measure.

**Establishment of Water Apportionment Board.**

3. (1) The Minister shall appoint a Board, to be styled the Water Apportionment Board, which shall consist of such number of persons as the Minister may determine, being not less than three nor more than fifteen persons.

(2) The Board shall have the functions conferred upon it by this Act, and may perform such functions notwithstanding any vacancy in its membership.

(3) The Water Registrar shall be *ex officio* Secretary of the Board.

(4) Neither members of the Water Apportionment Board nor the Water Registrar shall be personally liable for, or in respect of, any act or matter done or omitted to be done in good faith in the performance or supposed performance of their functions under this Act.

(5) In the performance of its functions under this Act the Board shall have regard to any relevant international agreement regulating the use of water to which Botswana is a party.

**PART II**

**OWNERSHIP OF AND INHERENT RIGHT TO THE USE OF PUBLIC WATER**

**Ownership and Use of Public Water and Construction of Works.**

4. Notwithstanding anything to the contrary in any other law there shall be no right of property in public water, and the control and use thereof shall be regulated as provided in this Act or in accordance with the provisions of the Waterworks Law, 1961 (Law No. 26 of 1961).

**Casual Use of Water in a Public Stream, etc.**

5. Any person may, without a water right, while he is at any place where he has lawful access to a public stream or to a natural lake, pan or swamp, take and use public water therein for the immediate purpose of –

- (a) watering stock;
- (b) drinking, washing and cooking; or
- (c) use in a vehicle;

but nothing in this section shall be construed as authorising the construction of any works.

**Use etc. of Water by Owners and Occupiers of Land**

6. (1) Subject to the provisions of this Act and of any other law, the owner or occupier of any land may, without a water right –

## **B.190**

- (a) sink or deepen any well or borehole thereon and abstract and use water therefrom for domestic purposes, not exceeding such amount per day as may be prescribed in relation to the area where such well or borehole is situated by the Minister after consultation with an Advisory Board established in pursuance of section 35 in respect of that area :

Provided that this paragraph shall not authorise the sinking of any borehole within 250 yards of any other borehole (other than a dry borehole) or authorise the deepening of any borehole which is within this distance of any other borehole ;

- (b) construct any works thereon for the conservation of public water, and abstract and use public water so conserved, for domestic purposes :

Provided that this paragraph shall not authorise the construction of any works in a public stream unless –

- (i) the whole of the catchment area of that stream above the works lies within such distance of the works as may be prescribed in relation to the area where the works are situate by the Minister after consultation with an Advisory Board established in pursuance of section 35 in respect of that area ; or if no such distance is prescribed, within 2½ miles of such works ; or
- (ii) the Minister after consultation with such a Board as aforesaid has prescribed that that stream or the portion thereof where the works are construed shall be deemed not to be a public stream for the purposes of this section ;

(2) Where any person is authorised under the provisions of paragraph (a) of subsection (1) to construct or deepen a borehole, he may also construct or deepen stand-by boreholes ancillary thereto :

Provided that the total quantity of water which may be abstracted under this section from a borehole and any stand-by borehole ancillary thereto shall not exceed in aggregate the total quantity which may be abstracted from a single borehole under the provisions of that paragraph.

(3) Nothing in this section shall be deemed to authorise an occupier of tribal land to do any of the things referred to herein except to the extent that he is permitted to do so under any customary law applicable to him or by agreement with the owner of such land.

### **Right to Water for Mining Purposes**

7. (1) The holder of any right under the Mines and Minerals Act, 1967 to mine any mineral shall have in respect of the land to which his right relates the same rights as are conferred by section 6 on the owner or occupier of any land and may also abstract and use any underground water encountered in any workings and construct any works required for or in connection with the use of such water.

## **B.191**

(2) The holder of any right under the Mines and Minerals Act to prospect may within the area within which he may lawfully so prospect and subject to all rights which others may have to the use of water –

- (a) abstract and use for prospecting purposes any public water to which he has lawful access;
- (b) construct or enlarge any well or borehole in any land on which he has a right to explore or prospect, and abstract water therefrom, not exceeding five thousand gallons in any one day; and
- (c) abstract and use any underground water encountered in any workings and construct any works required for or in connection with the use of such water.

(3) Any person abstracting water under the provisions of this section shall comply with the directions of the Water Registrar regarding the disposal of such water as is not used.

(4) Failure to comply with any direction given under subsection (3) shall be an offence, and the offender shall be liable to the penalties prescribed in section 37.

### **Right to Water for Forestry Purposes**

8. The holder of rights granted under the provisions of the Forest Act, 1967 to take forest produce may, within the area within which such rights may be exercised and subject to all rights which others may have to the use of water –

- (a) abstract and use any public water to which he has lawful access, not exceeding five thousand gallons in any one day or such other quantity as may be prescribed, for logging and sawmilling operations of a temporary nature:

Provided that no such operation shall be deemed to be of a temporary nature unless no substantial plant is maintained in any one place for more than the one year nor is intended to be so maintained;

- (b) construct or enlarge any well or borehole and abstract water therefrom not exceeding five thousand gallons in any one day.

### **Prohibition of Use of Water Except with Lawful Authority**

9. (1) Subject to the foregoing provisions, no person shall divert, dam, store, abstract, use, or discharge any effluent into, public water or for any such purpose construct any works, except in accordance with a water right granted under this Act:

Provided that nothing in this section shall prevent the continuation of existing rights to abstract and use public water, or the taking of public water for fighting fires.

## **B.192**

(2) Any person who diverts, dams, stores, abstracts, uses, or discharges any effluent into, public water or who, for any such purpose constructs any works except under and in accordance with the provisions of this Act or of any other written law shall be guilty of an offence and the offender shall be liable to the penalties prescribed in section 37.

### **Determination of Certain Existing Rights**

10. (1) Every existing right shall determine if the person entitled thereto fails to notify the Water Registrar in accordance with section 12 of the existence of that right before the expiration of the period allowed for notification :

Provided that when the Water Registrar is satisfied that an existing right within the meaning of the Act exists, he may direct that such right be recorded notwithstanding that the person entitled thereto has failed to notify the Water Registrar of the existence of such right, and upon the recording thereof it shall be deemed not to have determined under the provisions of this section.

(2) Nothing in this section shall apply to an existing right of the nature described in section 14.

### **No Prescriptive Rights to Use of Water**

11. No person shall, after the commencement of this Act, acquire or be deemed to have acquired any right to divert, dam, store, abstract, use or discharge any effluent into, any public water by reason of length of use or the elapse of time.

## **PART III**

### **RECORDING OF EXISTING RIGHTS**

#### **Application for Registration of Existing Rights**

12. (1) Every person having an existing right may, within one year from the appointed day, notify the Water Registrar of such right ;

Provided that the Minister may, in his discretion in respect of any particular case or class of cases or in respect of any particular area, extend the period within which notification is to be made, either before or after the expiration of that period.

(2) For the purposes of this section "the appointed day" means in respect of any area of Botswana, such day as the Minister may, by notice in the *Gazette*, appoint for that area.

**Registrar to Record Existing Rights**

13. (1) On the receipt by the Water Registrar of a notification under section 12 he shall, after making such investigation as he considers advisable and if he is satisfied that an existing right has been proved to exist, record the same in the register of water rights and issue a certificate under his hand that such a right has been recorded; if the Registrar is not so satisfied, he shall not record the right and the right shall thereupon determine.

(2) On the recording of an existing right in terms of subsection (1) the person who possesses the right shall be deemed to have been granted a water right under this Act.

**Certain Existing Rights Not Subject to the Provisions of this Part**

14. Nothing in this Part shall apply to an existing right to abstract and use water in a quantity not exceeding five thousand gallons in any one day.

**PART IV**

**GRANT OF WATER RIGHTS**

**Grant of Water Rights**

15. (1) The Board may grant to any person the right to divert, dam, store, abstract, use, or discharge any effluent into, public water from such source, in such quantity, for such period, whether definite or indefinite, and for such purpose as may be specified in the water right, subject to such terms and conditions as it may deem fit.

(2) Application for the grant of a water right shall be made to the Board through the Water Registrar who shall give notice of the same in the prescribed manner.

(3) Any interested person may notify the Water Registrar within such period as may be prescribed that he objects to the grant of a water right and shall specify the grounds of such objection, and shall, if he so require, have a right to be heard thereon by the Board.

(4) The Board shall consider every application and any objections made to it in respect thereof and may, after consulting such persons and authorities, if any, as it may, in its sole discretion, decide to consult, grant such right as it may consider appropriate or dismiss the application.

(5) Nothing in any such grant shall be deemed to imply any guarantee that the quantity of water therein referred to is or will be available.

## **B.194**

(6) The Water Registrar may in consultation with the Director of Geological Survey authorise any public officer to construct or enlarge a borehole for the purposes of the State where he is satisfied that reasonable cause exists for not making application to the Board under the provisions of subsection (2):

Provided that nothing in this subsection shall authorise the abstraction and use of water from any borehole so constructed.

### **Rights May be Made Appurtenant to Land**

16. (1) The Board may, either at the time of the grant of any water right or at any time after the grant of any water right declare that such right shall be appurtenant to the land described in the water right.

(2) Where a water right has been declared to be appurtenant to any land, the benefit of the right shall be enjoyed and the right may be enforced by the person who is for the time being entitled to the possession of the land.

(3) Where in consequence of any transfer, lease, partition or devolution of property, whether by will or on intestacy, or otherwise, any person becomes entitled to the possession of part of or a share in the land to which a water right has been declared appurtenant, he may abstract and use such proportion of the water the abstraction and use of which is permitted by the water right as may be assigned to him in the transfer, lease, partition, or will or is by law apportioned to him or as may be agreed between him and the persons entitled to the possession of the remaining parts or shares of or in the land, or in the absence of any such agreement, as may be determined by the Board.

(4) Where any apportionment of water has been made under the provisions of subsection (3) in respect of any partition of land, the several quantities of water so apportioned shall be deemed to be appurtenant to the several parts of such land and the benefit thereof shall be enjoyed and all rights thereof may be enforced, in accordance with such apportionment by the persons who are for the time being entitled to the possession of such parts, and such rights shall prevail until the parts shall again become merged with each other.

(5) Any person acquiring a right to abstract and use water by agreement in accordance with the provisions of subsection (3) shall within thirty days give notice thereof in the prescribed form to the Water Registrar failing which such right shall be unenforceable.

### **Conditions Implied in Certain Rights**

17. (1) The following conditions shall be implied in every water right granted for mining, forestry or industrial purposes or for the generation of power –

(a) that the water used thereunder –

(i) shall be returned, if reasonably practicable, to the stream or body of

water from which it was taken or to such other stream or body of water as may be authorised by the Water Registrar;

- (ii) shall, in so far as the use to which it is put allows, be substantially undiminished in quantity;
  - (iii) shall not be polluted with any matter derived from such use to such extent as to be likely to cause injury either directly or indirectly to public health, livestock, animal life, fish, crops, orchards or gardens which are irrigated by such water or to any product in the processing of which such water is used; and
- (b) that precautions shall be taken by the holder of the right to the satisfaction of the Water Registrar to prevent accumulations in any river, stream or water course of silt, sand, gravel, stones, sawdust, refuse, sewage, waste or any other substance likely to affect injuriously the use of such water.

(2) Any holder of a water right who contravenes or who fails to comply with any condition implied in a water right in accordance with the provisions of subsection (1) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 37.

#### **Rights Conditional on Construction of Works**

18. (1) Where the Board has granted a water right subject to the construction of works within a specified period the Water Registrar may, from time to time and at any time, notwithstanding that the period previously allowed may have expired, extend the period for the construction of such works.

(2) At the expiration of the period allowed for the construction of the works, the Water Registrar shall cause the works to be inspected by an officer designated by him for the purpose who, if they have been constructed to his satisfaction, shall so certify in writing to the Water Registrar.

(3) No certificate issued under this section shall be deemed to imply any guarantee by the Government that the works are properly designed or constructed nor shall support or justify any claim whatsoever against the State or any public officer in connection with such works.

## **PART V**

### **REVISION, VARIATION, DETERMINATION AND DIMINUTION OF WATER RIGHTS**

#### **Inadequacy of Water Supply for Satisfaction of Water Rights**

19. If at any time in the opinion of the Minister, in any specified area the quantity of water to which rights of use exist is insufficient to satisfy all such water rights, he may direct the Board to review the use, diversion, control and appropriation of public water in that area and, in so doing, the Board may revise the quantity allowed by any right and the terms and conditions of any right to the use of water in that area:

Provided that the Board shall have regard to the principle that where beneficial use of the whole right has been maintained, no right shall be cancelled or reduced except proportionally with all other rights in the same area.

#### **Suspension or Variation of Rights on Account of Drought Etc.**

20. Where in the opinion of the Board the supply of public water from any source or in any area is or is likely to become insufficient for the needs of persons using it on account of drought or of an emergency, the Board may authorise the Water Registrar at any time and from time to time to suspend or vary, by notice in writing to the holders of water rights (including any right referred to in Part II) all or any rights to abstract or use water from that source, or in that area, for such period as he may deem necessary, and upon notice being given by the Water Registrar as aforesaid, such rights shall cease for the period of suspension or shall be exercisable only as so varied, as the case may be.

#### **Where Quantity Unspecified Water Board may Specify Quantity**

21. Where any right to the use of an unspecified quantity of public water subsists, the Board may at any time specify the quantity of water for which such right may be valid, and direct the Water Registrar to record the same in the register of water rights and so inform the holder of the right:

Provided that the Board shall, before so specifying give the holder of the right the opportunity of making representations thereon, and shall take into consideration any such representations.

#### **Variation of Water Rights with Consent**

22. The Board may from time to time, on the application or with the consent of the holder of a water right, determine or diminish the right or vary any of the conditions thereof.



### **Determination for Breach of a Condition**

23. Where the holder of a water right has failed to comply with any condition, express or implied, subject to which the right was granted, or has abstracted or used public water in excess of that authorised or has used public water for a purpose not authorised by the grant, the Board may by notice in writing addressed to the holder declare the right to be determined:

Provided that where the default is one capable of being remedied, the Water Registrar shall first serve on the holder notice in writing specifying the default and requiring the holder to remedy the same within such time as may be specified in the notice.

### **Determination or Diminution for Non-use**

24. (1) If at any time the Water Registrar has reason to believe that the holder of a water right has not, during the preceding three years, made full beneficial use of that right, he may by notice in writing addressed to such holder call upon him to show cause why such right should not be determined or diminished or modified in such respects as may be specified in the notice.

(2) If within three months of the service of such notice no reply has been received by the Water Registrar, the Board may declare the right determined or diminished or modified as the case may be.

(3) The holder of a water right upon whom a notice has been served under subsection (1) may, within three months of such service, submit to the Board a statement in writing of reasons why the right should not be determined or diminished or modified, as the case may be, and may require to be heard in the matter.

(4) The Board shall consider any statement submitted to it under subsection (3) and shall, if so required, give the holder an opportunity of being heard in person or by his legal representative and may thereafter by notice in writing addressed to the holder –

- (a) declare the right determined; or
- (b) declare the right diminished or modified in such respects as may be specified in the declaration; or
- (c) declare the right to be subsisting unchanged.

### **Determination or Diminution for Public Purposes**

25. (1) Where the Board is satisfied that public water is required for public purposes it may, by notice in writing addressed to the holder of any water right, determine or diminish that right to the extent that such water is required for the aforesaid public purpose, and thereupon the right shall lapse or shall be exercisable only as so diminished, as the case may be.

**B.198**

(2) The holder of any right determined or diminished under the provisions of this section shall be entitled to receive compensation from the Government for all loss resulting from the determination or diminution of the right. The amount of compensation payable shall in the absence of agreement be determined by the High Court upon the application of the holder or the Minister.

(3) The Minister may by notice in the *Gazette* declare any purpose to be a public purpose within the meaning of this section.

**PART VI**

**MISCELLANEOUS POWERS**

**Power to Create Servitudes**

26. (1) Where any person who is the holder of a water right or who has applied for the grant of a water right is unable fully to enjoy the benefit of the right without a servitude, and has failed to secure a servitude by agreement with the owner or occupier of the land over which the servitude is required, he may apply to the Board through the Water Registrar for the creation of such servitude.

(2) Upon the receipt of any such application the Water Registrar shall serve notice of the application on the owner and occupier of the land over which a servitude is sought and on any other persons known to be interested in the land.

(3) Any interested person may notify the Water Registrar that he objects to the creation of the servitude under this section or that he desires to be heard on the subject of compensation.

(4) The Board shall consider any objections made to the Water Registrar and shall give an opportunity of being heard to all persons who so require, and may thereafter by a certificate in the prescribed form create such servitude as it may consider appropriate or refuse to create a servitude and may make ancillary order in connection therewith including provision for the payment of compensation;

Provided that any interested party may appeal to the High Court against any order by the Board under this subsection awarding compensation or against any decision by the Board not to award any compensation save where such order or decision was made with his consent.

(5) Where the water right in respect of which a servitude is created has been made appurtenant to the land of the holder of the water right, then a servitude created by the Board may be made appurtenant to such land as a praedial servitude but not otherwise.

(6) If the person enjoying the benefit of a servitude fails to pay such compensation as directed or to construct any bridges and other works which the Board may require him to construct within such time as is therefor allowed by the Water Registrar, or fails to maintain or repair such bridges or other works

after being required to do so by the Water Registrar, the Board may by notice in writing to that person and to the Registrar of Deeds determine the servitude.

(7) Any compensation due under this section which remains unpaid may be sued for as a civil debt.

(8) Any servitude created by agreement between the holder of a water right and any other person may be made appurtenant to the land of the holder of the water right as a praedial servitude where the water right in respect of which the agreement is made is appurtenant to such land:

Provided that no such agreement shall operate to create a servitude appurtenant to the land unless and until a copy of the agreement shall have been forwarded to the Water Registrar by the holder of the water right.

(9) Any servitude created in terms of this section shall be registered in the Deeds Registry within six months of its creation in such manner as may be prescribed, and unless it is so registered shall determine on the expiry of six months from the date of creation.

#### **Right to Call for Information**

27. The Water Registrar, or the Board, may in the exercise of their functions under this Act, call upon any person to give information on such matters and in such manner as may be prescribed.

#### **Power to Inspect Works and Require Reparation, Etc.**

28. (1) The Water Registrar and all persons authorised by him in writing may, at all reasonable times, enter upon any land and may inspect any works constructed or under construction thereon and may take measures to ascertain the quantity of water abstracted or capable of being abstracted by means of such works or otherwise.

(2) If in the opinion of the Water Registrar any works are so constructed, maintained or used or are being so constructed, as to constitute a danger to life, health or property, he may require any person for the time being enjoying the benefit of those works to carry out such repairs or to effect such additions or modifications to such works or to carry out such demolitions or to change the use of the works in such manner as he may consider necessary and may by notice in writing suspend any water right until he is satisfied that such requirement has been fulfilled and thereupon the right shall cease for the period of the suspension.

(3) No compensation shall be payable to the owner or occupier of any land by reason that entry has been made upon such land in pursuance of the provisions of subsection (1) of this section.

## **B.200**

### **Power to Require Demolition of Unlawful Works**

29. (1) The Water Registrar may by notice in writing require any person –

- (a) who has constructed or extended or caused to be constructed or extended any works contrary to the provisions of this Act or to any other provisions not inconsistent with the provisions of this Act, under which such person was required or authorised to construct or extend the same or cause them to be constructed or extended; or
- (b) whose water right or existing right in respect of which any works are in existence has been determined under the provisions of this Act or has otherwise come to an end,

to modify, demolish or remove such works within such period, not being less than thirty days, as may be specified in the notice.

(2) If any person fails to comply with a notice served on him under subsection (1) of this section, it shall be lawful for the Water Registrar to cause such works to be modified, demolished or removed and to recover the cost of the modification, demolition or removal from the person in default by civil suit.

(3) Failure to comply with a notice given under subsection (1) shall be an offence and the offender shall be liable to the penalties prescribed in section 37.

### **Power to Establish Hydrological Stations and make Surveys**

30. (1) The Minister and all persons authorised by him may at all reasonable times enter upon any land for the purpose of making such investigations and surveys as the Minister may consider necessary in the interest of the conservation and best use of water in Botswana, and may establish and maintain on any such land, without other authority than this Act, hydrological stations and other works for the purpose of obtaining and recording information and statistics as to the hydrological conditions of Botswana.

(2) No compensation shall be payable to the owner or occupier of any land by reason that entry has been made upon such land in pursuance of the provisions of subsection (1) of this section but compensation shall be payable for all damage done and for any land occupied for the construction of works. In the absence of agreement such compensation shall be determined by the High Court on the application of the owner or occupier or of the Minister.

## PART VII

### APPEALS

#### Appeals to the Minister

31. (1) Any person who is aggrieved by the refusal of the Water Registrar to record an existing right or by any other decision made under section 13 or by the grant of or the refusal of the Board to grant or renew a water right, or by any conditions imposed when granting or renewing a water right, or by the determination or diminution or modification or suspension of any water right, or by the grant of or refusal to grant any servitude or by the conditions subject to which any servitude is created (other than matters to which the proviso to section 26 (4) applies), or by any direction regarding the disposal of underground water abstracted from any workings, or by any requirement that any work should be repaired, added to, altered, demolished or removed, or that the use of any works be changed, may appeal to the Minister whose decision in the matter shall be final.

(2) Notwithstanding the provisions of subsection (1) no person may appeal to the Minister against the grant or renewal of a water right or the grant of any servitude, who did not make objection to such grant or renewal under the provisions of section 15 (3) or 26 (3), as the case may be.

## PART VIII

### MISCELLANEOUS

#### Registration

32. (1) The Board shall notify the Water Registrar of every grant or renewal of a water right made by it and of the variation, determination, diminution, modification or suspension of a water right or existing right, and of any servitude created or determined by it, and the water Registrar shall enter the same in the register of water rights.

(2) Any person shall, on application to the Water Registrar, be entitled to receive certified or uncertified extracts from the register of water rights.

(3) Extracts from the register of water rights certified to be under the hand of the Water Registrar shall be admissible in evidence in all legal proceedings, civil or criminal, without proof that they are under the hand of the Water Registrar and be *prima facie* evidence of the facts recorded therein.

#### Delegation of the Functions of Water Registrar and Board

33. (1) The Water Registrar may with the approval of the Minister delegate his functions under this Act, either in whole or in part, and either in respect of

## **B.202**

the whole of Botswana, or any portion thereof, to such officer or officers in the public service as he may designate by writing under his hand.

(2) The Board may delegate with the approval of the Minister its powers under this Act to authorise the construction and enlargement of, and the abstraction of water from, wells and boreholes to any duly constituted local authority subject to such terms and conditions as it may impose and, in the event of such delegation, any function vested in the Water Registrar in connection therewith shall be deemed to be vested in the appropriate officer of such local authority.

### **Act to Bind the State**

34. This Act shall bind the State.

### **Power to Make Rules and Regulations**

35. The Minister may make regulations –

- (a) prescribing anything which is required to be, or which may be, prescribed under this Act;
- (b) prescribing the registers and records to be kept and the manner in which they are to be kept;
- (c) providing for the forms to be used and the fees to be paid in respect of any matter required or permitted to be done under this Act;
- (d) providing for the advertisement of applications for the use of public water and for the giving of notice to interested persons;
- (e) providing for and regulating the making of objections and the time within which such objections shall be made;
- (f) regulating the procedure of appeals to the Minister under this Act;
- (g) providing for the formation, functions and conduct of local associations of public water users;
- (h) in the case of a water right or existing right enjoyed by an association of persons, regulating the division and distribution of water between those persons;
- (i) prescribing the matters on which and the manner in which persons may be required to give information as provided in section 27;
- (j) providing for the creation of Advisory Boards to assist the Water Registrar or Board or Minister in the discharge of their functions under this Act;
- (k) prescribing the procedure and conduct of meetings of the Board;
- (l) to provide, subject to the payment of compensation in accordance with the provisions of section 80 of the Constitution, for the taking of material

- required for the construction of works;
- (m) generally for the better carrying out of the provisions of this Act.

**Pollution of Public Water etc.**

36. (1) Any person who –

- (a) save under the authority of this Act or any other written law interferes with or alters the flow of or pollutes or fouls any public water; or
- (b) without the permission of the Water Registrar places any poison in any public water or water in any work to which any member of the public or domestic animal may reasonably be expected to obtain access, whether lawfully or unlawfully;

shall be guilty of an offence and shall be liable to the penalties prescribed in section 37.

(2) For the purposes of this section the polluting or fouling of public water shall include the discharge into, or in the vicinity of, any public water, or in a place where public water is likely to flow, of any matter or substance likely to cause injury whether directly or indirectly to public health, livestock, animal life, fish, crops, orchards or gardens which are irrigated by such water or any product in the processing of which such water is used or which occasions, or which is likely to occasion, a nuisance.

**Penalties**

37. (1) A person who is guilty of an offence under section 9 (2) or 36 (1) shall be liable to a fine of R1,000 or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

(2) A person who is guilty of an offence under section 7 (4), 17 (2) or 29 (3) shall be liable to a fine of R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) In addition to the penalties which may be imposed in terms of this section the court may, in the event of a continuing offence, impose a fine of R10 for each day during which the offence continues.

**Repeal**

38. The Right of Passage of Water Act (Chapter 117) is repealed.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

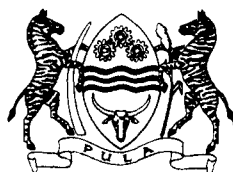




B.205

**THE MEDICAL, DENTAL AND PHARMACY (AMENDMENT) ACT, 1967**

No. 41



of 1967

**AN ACT TO AMEND THE MEDICAL, DENTAL AND PHARMACY PROCLAMATION (CAP. 147).**

Date of Assent: 19.10.67.

Date of Commencement: 20.10.67.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Medical, Dental and Pharmacy (Amendment) Act, 1967.

**Amendment of Section 1 of Cap. 147**

2. Section 1 of the Medical, Dental and Pharmacy Proclamation (Chapter 147) (hereinafter referred to as the principal law) is amended —

(a) by the insertion prior to the definition of “Intern” of the following definition —

“ “Director” means the Director of Medical Services;”

(b) by the addition of the following subsection, the existing section becoming, thereby, subsection (1) —

(2) For the purposes of sections 7A to 7I and section 15 “practitioner” means any person entered in the register kept in terms of section 3 as a medical practitioner or any person granted leave to practise as such in pursuance of the provisions of the proviso to section 2.”.

**Amendment of Section 2 of Cap. 147**

3. Section 2 of the principal law is amended by the addition of the following proviso:

“Provided that the Director may authorise a medical practitioner, dentist, chemist, oculist or optician who is entitled to practise as such under the laws of a foreign or Commonwealth country to practise for a limited period or for a purpose specified by the Director subject to such conditions or restrictions as the Director

**B.206**

may impose notwithstanding that he is not registered in accordance with the provisions of this Proclamation.”.

**Amendment of Section 3 of Cap. 147**

4. Section 3 of the principal law is amended —

(a) in subsection (2) —

(i) in paragraph (a) by the deletion of “in the United Kingdom of Great Britain and Northern Ireland or in the Union of South Africa”;

(ii) in paragraph (b) by the deletion of “President” and substitution of “Minister”;

(b) in subsection (3) by the deletion of “by the President”;

(c) by the addition of the following subsections —

“(4) Notwithstanding the provisions of subsections (2) and (3) the Minister may enter a person on the register who is in possession of diplomas or certificates other than prescribed diplomas and certificates where he is satisfied in all the circumstances of the case that the person is qualified to practise as a medical practitioner, intern, dentist, chemist, oculist or optician and is, in all other respects, a fit and proper person.

(5) The Minister may refuse his approval of any application for registration without stating his reasons.”.

**Amendment of Section 6 of Cap. 147**

5. Section 6 of the principal law is amended —

(a) by the deletion of “President” where it first appears and the substitution of “Minister”;

(b) by the deletion of “five pounds” and the substitution of “R10”;

(c) by the deletion of “one pound” and the substitution of “R2”;

(d) by the deletion of “ten shillings” wherever it appears and the substitution of “R1”.

**Amendment of Section 7 of Cap. 147**

6. Section 7 of the principal law is repealed and the following sections are substituted —

**“Discipline**

7. (1) There shall be a Medical Ethical Advisory Committee for Botswana (hereinafter referred to as the committee) which shall consist of —

(a) the Director; and

## **B.207**

- (b) a private medical practitioner who shall be elected in the prescribed manner from amongst the private medical practitioners in Botswana; and
- (c) not more than four medical practitioners (being persons entitled to practice as such either within or outside Botswana) nominated by the Minister.

(2) The President of the committee shall be the Director.

(3) The Attorney-General or a person nominated by him shall attend every enquiry undertaken by the committee under the provisions of this Proclamation to advise on matters of law, procedure and evidence.

(4) Where any member of the committee is a member of a committee of similar function established by the Government of Lesotho or Swaziland such person may, within Botswana, exercise his functions as a member of such committee according to the law for the time being in force in Swaziland or Lesotho as the case may be.

(5) Where any member of the committee is within Lesotho or Swaziland for the purpose of performing his functions as a member of a committee of similar function established by the Government of Lesotho or Swaziland he may, within Lesotho or Swaziland, perform his functions as a member of the committee established by this Act in accordance with the provisions of this Act.

### **Enquiries by Committee**

7B. (1) The committee shall have the power to enquire into and make a finding upon any complaint, charge or allegation of improper conduct or disgraceful conduct in a professional report against any practitioner and having found that any such complaint, charge or allegation has been proved, to report its finding to the Minister:

Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of criminal proceedings the committee may postpone enquiry until such proceedings have been determined:

Provided further that a practitioner as to whose conduct as aforesaid enquiry is to be made shall be afforded an opportunity, by himself or a legal practitioner representing him, of answering the complaint, charge or allegation and of being heard in his defence.

(2) The Minister may suspend any practitioner

- (a) in respect of whom an enquiry under this section is pending; or
- (b) against whom criminal proceedings are pending;

until the termination of such enquiry or of such proceedings and, thereafter, pending his determination under section 7C and, where appeal is made under 7D, until the determination of the matter by the High Court.

### **Penalties**

7C. The Minister, if of the opinion that disciplinary action should be taken

## **B.208**

against such practitioner, shall impose on him one or other of the following penalties —

- (a) a caution or a reprimand or caution and a reprimand; or
- (b) suspension for a specified period from practising or performing acts specifically pertaining to the profession of medical practitioner or dentist; or
- (c) erasure of his name from the register kept in terms of section 3, if his name is entered in the register.

### **Appeal to High Court**

7D. (1) Any practitioner aggrieved by the finding of the committee made under section 7B may appeal against that finding or against the penalty imposed by the Minister under section 7C to the High Court in manner provided by the rules of court.

(2) The High Court shall enquire into and consider the matter appealed against, and, in the case of an appeal against the finding of the committee, may confirm, vary or set aside that finding or make such other finding as in its opinion the committee ought to have made or in the case of an appeal against any penalty imposed by the Minister, may confirm vary or set aside such penalty or substitute a different penalty so, however, that the penalty so substituted shall not be more severe than the penalty imposed by the Minister and may make such order as to costs as it may deem fit:

Provided that the finding of the committee shall not be set aside by reason only of an irregularity which did not materially embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

(3) In the exercise of its functions under this section the High Court shall have the power to summon and examine witnesses and, for such purposes, the enquiry shall be deemed to constitute criminal proceedings for the purposes of the Criminal Procedure and Evidence Proclamation (Chapter 18).

(4) The High Court may, for the purpose of ascertaining what is improper or disgraceful conduct, take into consideration the evidence of practitioners given at the enquiry or contained in the appeal record.

### **Termination of Suspension**

7E. Every person who has been suspended or whose name has been erased from the register shall be disqualified from practising as a practitioner and if he has been issued with a certificate of registration it shall be deemed to be cancelled until the period of suspension is expired or until his name has been restored to the register.

### **Report by a Court to Committee**

7G. Whenever in the course of any proceedings before any court it appears to

the court that there is *prima facie* evidence of improper conduct or disgraceful conduct on the part of a practitioner the court shall direct that a copy of the record in such proceedings, or such portion thereof as is material to the issue, shall be transmitted to the committee for enquiry. Such enquiry shall be deemed to be an enquiry under the provisions of section 7B.

#### **Indemnification of Committee and Members**

7H. No legal proceedings, civil or criminal, shall lie against the committee or any member thereof in respect of any act or duty performed in accordance with this Proclamation.

#### **Rules of the Committee**

7I. The committee may, with the approval of the Minister make rules regulating its own procedure and prescribing the acts or omissions constituting improper conduct or disgraceful conduct of which the committee may take cognizance under this Proclamation.”.

#### **Repeal of Section 8 of Cap. 147**

7. (1) Section 8 of the principal law is repealed.

(2) Notwithstanding provisions of subsection (1) any person registered under the provisions of section 8 (1) of the principal law prior to the coming into operation of this Act shall be deemed to be registered under the provisions of section 3 of the principal law as amended by this Act.

#### **Amendment of Section 11 of Cap. 147**

8. The principal law is amended in subsection (7) of section 11 by the deletion of “fifty pounds” and the substitution of “R100”.

#### **Amendment of Section 12 of Cap. 147.**

9. The principal law is amended in section 12 by the deletion of “ten pounds” and the substitution of “R20”.

#### **Amendment of Section 13 of Cap. 147**

10. Section 13 of the principal law is amended —

(a) by inserting after “13” the number “(1)”;

(b) in subsection (1) —

(i) by the deletion of “fifty pounds” and the substitution of “R100”;

(ii) by the deletion of “one hundred pounds” and the substitution of “R200”;

(c) by the addition of the following subsection —

**B.210**

“(3) The provisions of subsection (1) shall not be deemed to prohibit a herbalist prescribing according to African custom, nor shall it apply to dispensers who have been approved by the Minister and who are directly or indirectly employed by and come under the control of the Government of Botswana.”.

**Amendment of Section 14 of Cap. 147.**

11. Section 14 of the principal law is amended —

- (a) by the deletion of “the Proclamation of the 4th April, 1892” and the substitution of “any written law”;
- (b) by the deletion of “General Dealer” and the substitution of “person”;
- (c) by the deletion of “the said Proclamation” and the substitution of “such written law”.

**Insertion of New Section 15 into Cap. 147**

12. The principal law is amended by the insertion of the following after section 14, the existing section 15 becoming, thereby, section 16—

**“Regulations**

15. The Minister may, by notice in the *Gazette* make regulations providing for —

- (a) the manner in which complaints, charges or allegations against a practitioner may be lodged and in which evidence may be heard;
- (b) the method of summoning persons against whom complaints, charges or allegations have been made and the penalties for failure or refusal on the part of any such persons to attend when summoned or for obstructing or interrupting the proceedings;
- (c) the method of summoning witnesses and of requiring the production of any book, record, document or thing and the penalties for failure or refusal on the part of any such witnesses to attend when summoned or for refusing to give evidence or to produce any book, record, document or thing or for obstructing or interrupting the proceedings;
- (d) oaths and the manner of the administration of oaths; and
- (e) any other matter incidental to the holding of any enquiry;
- (f) the creation of a board or committee to advise the Minister in the exercise of his functions under this Proclamation;
- (g) anything which, in terms of this Proclamation, is required or permitted to be prescribed;

and generally for the better carrying out of the provisions of this Proclamation.”.

**Further Amendment of Cap. 147**

13. The principal law is amended —

- (a) by the deletion of “dentist, chemist, nurse or midwife” wherever it appears and the substitution of “dentist or chemist”;
- (b) by the deletion of the expressions “nurse or midwife” and “nurses or midwives” wherever they appear.

**Amendment of Schedule B of Cap. 147**

14. The principal law is amended in Schedule B —

- (a) by the deletion of “Chief Secretary’s Office” and the substitution of “Ministry of Education, Health and Labour”;
- (b) by the deletion of “Chief Secretary” and the substitution of “Permanent Secretary, Ministry of Education, Health and Labour”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk to the National Assembly.





B.213

**THE PENAL CODE (AMENDMENT) ACT, 1967**

No. 42



of 1967

**AN ACT TO AMEND THE PENAL CODE**

Date of Assent: 19.10.67.

Date of Commencement: 20.10.67.

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Penal Code (Amendment) Act, 1967.

**Amendment of Section 87 of the Penal Code**

2. Section 87 of the Penal Code is amended by the insertion after "public place" of "or at any public meeting or gathering".

**B.214**

**Amendment of Section 141 of the Penal Code**

3. Section 141 (2) of the Penal Code is deleted and the following is substituted —

“(2) It shall be no defence to a charge for an indecent assault on a girl under the age of sixteen years to prove that she consented to the act of indecency unless it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years or was his wife”.

**Amendment of Section 204 of the Penal Code**

4. Section 204 of the Penal Code is amended in section 204 —

(a) in paragraph (b) —

(i) by the deletion of “will probably” and the substitution of “is likely to”;

(ii) by the deletion of “or grievous harm to”;

(iii) by the deletion of “or grievous bodily harm”;

(b) by the deletion of paragraph (c).

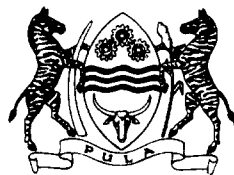
Passed by the National Assembly this day, the 25th August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

B.215

**THE RETIRING BENEFITS (NON-DESIGNATED OFFICERS) ACT, 1967**

No. 43



of 1967

**AN ACT TO PROVIDE RETIREMENT BENEFITS FOR PENSIONABLE OFFICERS WHO ARE NOT DESIGNATED OFFICERS FOR THE PURPOSES OF THE OVERSEAS SERVICE (BECHUANALAND PROTECTORATE) AGREEMENT, 1962, OR LOCAL OFFICERS**

Date of Assent: 19.10.67.

Date of Commencement: 20.10.67.

ENACTED by the Parliament of Botswana.

**Short Title and Application**

1. (1) This Act may be cited as the Retiring Benefits (Non-Designated Officers) Act, 1967.

(2) The provisions of this Act shall apply to persons who were holding permanent pensionable office in the service of the Government of the Bechuanaland Protectorate on the operative date who are –

- (a) not designated officers as defined in clause 1 of the Overseas Service (Bechuanaland Protectorate) Agreement, 1962; and
- (b) not citizens of Botswana; and

## **B.216**

- (c) subject to the provisions of the Schedule, not persons serving on probation or serving for a specified term under a contract of employment:

Provided that nothing in paragraph (b) shall render an officer ineligible for the benefits provided for in this Act who is both a citizen of another country and of Botswana and who became a citizen of Botswana under the provisions of section 20 of the Constitution, where such officer has renounced his citizenship of Botswana under the provisions of section 9 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966 (Law No. 39 of 1966) and who ceases to be, or who is deprived of, his Botswana citizenship on or before the 30th September, 1968.

### **Interpretation**

2. In this Act unless inconsistent with the context –

“Botswana” in relation to any period of time prior to the 30th September, 1966, means the Bechuanaland Protectorate;

“entitled officer” means a person to whom the provisions of this Act apply;

“operative date” means the 1st May, 1966;

“scheme” means the Scheme of Retirement Benefits for Pensionable Non-Designated Expatriate Officers published by the Government of the Bechuanaland Protectorate on the 22nd April, 1966;

“this Act” includes the Schedule thereto.

### **Application of Schedule**

3. The provisions of the Schedule to this Act shall have effect in relation to the public service of Botswana.

### **Transitional Provisions**

4. (1) Where any officer or authority has before the commencement of this Act and on or after the operative date in pursuance of any provision of the scheme given any permission or consent or prescribed any condition or granted any benefit or made any payment or made any declaration or done any other thing for the purposes of that scheme, that permission, consent, condition, benefit, payment, declaration or other thing shall be deemed to have been given, prescribed, granted, made or done, as the case may be, under the corresponding provision of the Schedule, and the provisions of the Schedule shall have effect accordingly.

(2) Where any officer has before the commencement of this Act and on or after the operative date in pursuance of any provisions of the scheme given any undertaking or given or received any notice or retired or received any benefit he shall, provided the conditions prescribed or deemed to have been prescribed by

## B.217

or under the Schedule are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, or to have been granted or received that benefit, as the case may be, under the corresponding provisions of that Schedule and shall have effect accordingly.

(3) Any officer who was, prior to the 30th September, 1966, required to retire to facilitate the localisation of the public service of the Bechuanaland Protectorate shall, for the purposes of the Schedule be deemed to have retired under section 12 of the Botswana Independence Order, 1966.

### Amendment of Schedule

5. The President may amend the Schedule by order in the *Gazette* :

Provided that the Schedule shall not be amended in a manner inconsistent with the scheme unless no entitled officer is or may be prejudiced by such amendment.

## SCHEDULE

(Section 3)

### Interpretation, etc.

1. (1) In this Schedule, unless the context otherwise requires –

“appropriate law” in relation to an entitled officer means the law in force in Botswana that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the public service of Botswana;

“General Orders” means the General Orders of the Government;

“paragraph” means a paragraph of this Schedule;

“pensionable emoluments” means, subject to the provisions of paragraph 10, the emoluments that may be taken into account in computing the pension of an officer under the appropriate law;

“pensionable service” means the aggregated amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law;

“Public Service Commission” means, in relation to an entitled officer to whom the provisions of section 111 (2) of the Constitution are applicable, the authority which, in terms of the Constitution, is empowered to remove such officer from office;

“subparagraph” means a subparagraph of the paragraph in which the word occurs.

## **B.218**

(2) For the purposes of this Schedule –

- (a) a person shall not be regarded as holding any office on the operative date if on that date he was on leave of absence pending his retirement otherwise than under this Schedule;
- (b) a person whose office has been abolished and who retires in consequence of the abolition of his office shall be deemed to be the substantive holder of that office during the period between the date on which the office was abolished and the date of expiration of any leave of absence granted to him pending his retirement.

(3) Where an officer who is serving on probation or under a probationary agreement and who would, if confirmed in his appointment, be an entitled officer, is required to retire under section 12 of the Botswana Independence Order, 1966, or is superseded in the manner described in paragraph 3 he shall, on being required, or on being given permission, to retire be confirmed in his appointment, whereupon he shall become an entitled officer.

(4) For the purposes of this Schedule resident service shall include, and shall not be deemed to have been interrupted by, not more than fourteen days vacation leave in any one calendar year utilized as casual or local leave.

### **Entitlement to Pension**

2. (1) Subject to the provisions of the Schedule every entitled officer who –

- (a) elects to retire from the pensionable service under this Schedule; or
- (b) is required to retire under section 12 of the Botswana Independence Order, 1966, or is superseded in the manner described in paragraph 3;
- (c) retires on the grounds enumerated in subparagraphs (ii) to (v) inclusive of section 7(1) (a) of the Pensions (Consolidation) Law, 1965;

on or after the operative date, shall be entitled to a pension at the rate of one sixhundredth of his pensionable emoluments in respect of each month of pensionable service.

(2) An entitled officer on his retirement under this Schedule may be granted at his option (such option to be exercised in accordance with the provisions of regulation 24 of the Second Schedule to the Pensions (Consolidation) Law, 1965) either –

- (a) a pension in the amount prescribed in subparagraph (1); or
- (b) a reduced pension equal to such fraction as he may desire of the pension that may be granted (being not less than three quarters) in terms of subparagraph (1) together with a gratuity equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor prescribed in the Appendix.

(3) Notwithstanding the provisions of subparagraph (2) (b) where an entitled officer remains in the service on pensionable terms for not less than two year's resident service (inclusive of the period of notice but exclusive of any vacation leave due to him) he may be granted a reduced pension equal to such fraction as he may desire of the pension that may be granted in terms of subparagraph (1), being not less than three quarters less an additional one sixteenth for every completed year of service after the operative date (excluding any deferred leave accumulated prior to the operative date), together with a gratuity calculated in the manner prescribed in that subparagraph.

**Superseded Officers**

3. (1) Where an entitled officer qualified for promotion to a vacant post is, in the opinion of the Public Service Commission, the person best qualified to fill that post and would have been recommended for appointment to it had he been a citizen of Botswana, but is not so recommended, and a citizen of Botswana is, thereafter, appointed to the post, the Public Service Commission shall notify the entitled officer accordingly.

(2) An officer who is superseded in the manner described in subparagraph (1) shall be entitled, on receiving notice under subparagraph (1), to give notice forthwith to the Public Service Commission of his retirement under this Schedule:

Provided that the provisions of (1) to (3) of paragraph 6 shall apply in relation to the giving of notice if the officer fails, within six months of the receipt of notification under subparagraph (1) to give notice under the provisions of this subparagraph.

(3) An officer who retires under the provisions of this paragraph shall be entitled to the following benefits –

- (a) a pension or reduced pension and gratuity in accordance with the provisions of paragraph 2;
- (b) an additional allowance in accordance with the provisions of paragraph 5;
- (c) the benefits prescribed in paragraph 6(6).

**Officers Required to Retire under Section 12 of the Botswana Independence Order, 1966**

4. An entitled officer who is required to retire under the provisions of section 12 of the Botswana Independence Order, 1966 shall be entitled to the following benefits –

- (a) a pension or reduced pension and gratuity in accordance with the provisions of paragraph 2;
- (b) an additional allowance in accordance with the provisions of paragraph 5;
- (c) the benefits prescribed in paragraph 6(6).

**B.220**

**Additional Allowance for Officers to Whom Paragraphs 2(3), 3 and 4 Apply**

5. (1) The provisions of this paragraph shall apply to an entitled officer –
- (a) who is required to retire under section 12 of the Botswana Independence Order, 1966;
  - (b) to whom the provisions of paragraph 3 apply;
  - (c) to whom the provisions of paragraph 2(3) apply.

(2) An officer to whom the provisions of this section apply shall be entitled to an annual allowance calculated at the rate of one two-thousand-one-hundred and-sixtieth of his unaveraged annual pensionable emoluments at the date of his retirement for each complete month of his pensionable service:

Provided that such allowance shall not, when added to the officer's pension under paragraph 2 (2) (a) exceed either the pension for which he would have been eligible under the Pensions (Consolidation) Law, 1965, if he had continued to hold the office held by him at the date of his retirement until he had reached the age of fifty-five years and then retired having been granted all increments of salary for which he would have been eligible by that date, or two-thirds of the highest pensionable emoluments enjoyed by him during his service with the Government of Botswana, whichever is the lesser amount.

(3) An officer entitled to an allowance under subparagraph (1) may be granted at his option (such option being exercised in accordance with the provisions of regulation 24 of the Second Schedule to the Pensions (Consolidation) Law, 1965) either –

- (a) such allowance;
- (b) a reduced allowance equal to such fraction as he may desire of such allowance together with a gratuity equal to the annual amount of the remaining fraction of that allowance multiplied by the appropriate factor prescribed in the Appendix;
- (c) a gratuity calculated by multiplying such allowance by the appropriate factor prescribed in the Appendix.

**Retirement**

6. (1) Subject to the provisions of this paragraph an entitled officer may, after giving such notice as may be prescribed by the Public Service Commission, retire at any time:

Provided that notice may not be given during a period of vacation leave save with the consent of the Public Service Commission which may, as a condition of giving such consent, require the officer to complete a period of six months' resident service prior to retirement.

- (2) An entitled officer who has given notice of his intention to retire under



## **B.221**

this paragraph on any date may, with the consent of the Public Service Commission, withdraw the notice at any time before that date.

(3) No entitled officer shall retire under this paragraph without the permission of the Public Service Commission:

Provided that the Commission shall not withhold permission unless disciplinary proceedings are being taken, or are about to be taken, against the officer and those proceedings might lead to his dismissal.

(4) An entitled officer –

- (a) who is permitted to retire by reason of injury or ill health;
- (b) who is required to retire on or after his attainment of any age prescribed by law, being under the age of fifty-five years;
- (c) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected;
- (d) who is required to retire in the public interest;
- (e) who is required to retire under section 12 of the Botswana Independence Order 1966; or,

(f) in the case of a woman officer, who is required to retire upon her marriage, shall be deemed to have retired under this paragraph.

(5) In the case of an entitled officer who retires under subparagraph (1) of this paragraph and —

- (a) who is on leave of absence after completing a tour of residential service –
  - (i) if he returns to Botswana for further duty at the requirement of the Government he shall be provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty, and when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service;
  - (ii) if he returns to Botswana to settle his affairs and on his return completes a tour of resident service of not less than twelve months, he will be paid the cost of passages for himself and his family and of transporting his baggage to Botswana (but not exceeding the cost of such passages and baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty) and provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under

**B.222**

General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service;

- (iii) if he does not return to Botswana, he shall be provided with such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service;

(b) who retires in any other circumstances –

- (i) he shall not be required to depart from Botswana on leave of absence pending his retirement until the expiration of a period of six months from the date upon which he gave notice under the provisions of this paragraph;
- (ii) he shall be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service.

(6) In the case of the retirement of an entitled officer who is required to retire in the circumstances described in subparagraph (4) (c) or (e) of this paragraph or who retires under paragraph 3 –

(a) who is on leave of absence after completing a tour of resident service –

- (i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice requiring him to retire or upon which he gives notice is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months; and
- (ii) he shall (if he returns to Botswana to settle his affairs) be provided with a passage to Botswana for his own use as if he were returning to Botswana for a further tour of resident service and such passage and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service;
- (iii) in the case of the retirement of an entitled officer in the circumstances described in subparagraph (4) (e) of this paragraph and who returns to Botswana to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period (but not exceeding twenty-one days) of his stay in Botswana;

(b) who retires in any other circumstances –

- (i) he shall not be required to depart from Botswana on leave of absence pending his retirement until the expiration of a period of six months from the date upon which he was given notice requiring him to retire;
- (ii) he shall be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of resident service.

(7) Subject to the provisions of this paragraph and of paragraph 13 an entitled officer shall, on retirement under the provisions of this Schedule, be entitled to all vacation leave on full pensionable emoluments as may have accrued to him under General Orders at the date of his retirement.

#### **Death of Entitled Officer**

7. (1) Where an entitled officer dies there may be granted to his personal representative the gratuity prescribed in section 16 of the Pensions (Consolidation) Law, 1965:

Provided that –

- (a) in computing such gratuity no account shall be taken of any moneys payable under paragraph 5;
- (b) any reference in section 16 –
  - (i) to pensionable emoluments shall be construed as a reference to pensionable emoluments defined in paragraph 1;
  - (ii) any reference to a pension or gratuity granted under the provisions of the Pensions (Consolidation) Law, 1965, (other than to a gratuity under section 16), shall be construed as a reference to the analogous pension or gratuity granted under this Schedule.

(2) Where an entitled officer, who has been given permission to retire, or has been given notice of compulsory retirement or who has remained in the service for a period of not less than two years from the operative date in circumstances entitling him to an additional allowance in accordance with the provisions of paragraph 5 dies in office or on leave prior to retirement, his personal representatives shall, in addition to any benefits to which they may otherwise be entitled under this paragraph, receive such additional allowance as the officer would have been entitled to receive had he retired under this Schedule at the date of his death and elected to commute the allowance.

(3) The Financial Secretary may on the advice of the Public Service Commission direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or to two or more of those dependants in such proportions as the Financial Secretary may think fit.

## **B.224**

### **Disciplinary Proceedings and Dismissal**

8. (1) When disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and those proceedings might lead to his dismissal, the payment of any benefit under this Schedule shall be withheld pending the determination of those proceedings.

(2) Where any person who is serving as an entitled officer is found guilty of misconduct, the Financial Secretary may, with the concurrence of the appropriate commission in accordance with the provisions of section 118 of the Constitution, withhold, reduce in amount or suspend any benefit under this Schedule which such officer has not already received.

(3) For the purposes of this Schedule the provisions of section 11 of the Botswana Independence Order, 1966, shall apply in relation to any decision of the nature described in subsection (1) of that section, including a decision of the nature described in subparagraph (2), as if references in that section to benefits were construed as references to benefits under this Schedule and as if the entitled officer were an officer of the class described in subsection (7) of section 11.

### **Place of Payment and Rate of Exchange**

9. Any benefit payable under this Schedule to an officer or to his personal representatives or dependants shall be paid, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries –

- (a) in the United Kingdom;
- (b) in Botswana;
- (c) in the country from which the officer was recruited or where he intends to reside;
- (d) in the case of payment to the personal representatives of an officer or his dependants, in the country in which the personal representatives or the dependants, as the case may be, reside; or
- (e) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the Financial Secretary, select;

in the currency of the country in which payment is to be made; and, where payment is to be made in a country other than Botswana, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation, gratuity, disturbance grant or interest as calculated at the official rate of exchange prevailing on the operative date.

### **Application of Appropriate Law**

10. The provisions of the appropriate law shall, subject to the provisions of this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law:

Provided that –

- (a) notwithstanding anything to the contrary in the Pensions (Consolidation) Law, 1965, but subject to the provisions of paragraph 15, the pensionable emoluments of an entitled officer who –
  - (i) is required to retire under section 12 of the Botswana Independence Order 1966; or
  - (ii) retires under paragraph 3; or
  - (iii) on or after the operative date has been required as a condition of an offer of promotion to undertake to serve the Government of Botswana for a period of not less than twenty-four months' resident service beginning from the effective date of promotion, or the operative date, whichever is the later;
  - (iv) has his office abolished under section 7(1) (a) (ii) of the Pensions (Consolidation) Law, 1965;
  - (v) is compulsorily retired under section 7(1) (a) (iii) of the Pensions (Consolidation) Law, 1965;
  - (vi) is required to retire under section 9 (b) of the Pensions (Consolidation) Law, 1965, only;shall be calculated solely on the basis of the emoluments which the officer was drawing at the date of his retirement;
- (b) section 11 of the Pensions (Consolidation) Law, 1965, shall not apply in relation to any pension granted under the provisions of this Schedule.

### **Exemption from Tax**

11. (1) Any gratuity payable under any of the provisions of this Schedule shall be exempt from tax under any law in force in Botswana relating to the taxation of incomes or imposing any other form of taxation.

(2) For the purposes of this section a gratuity shall not include an additional allowance payable under paragraph 5 or a pension.

### **Exercise of Options**

12. Subject to the provisions of paragraph 6 (2) any option exercisable by any person for the purposes of this Schedule –

**B.226**

- (a) shall be irrevocable after the end of the period within which it is to be exercised;
- (b) shall be exercised by notice in writing to the Public Service Commission;
- (c) shall be deemed to have been exercised on the date on which the notice is received;

Provided that the Public Service Commission may, if it thinks fit, generally or in respect of a particular person and subject or not to conditions, extend the period for the exercise of an option.

**Re-engagement on Contract**

13. (1) Where an entitled officer who intends to retire is re-engaged on contract terms the contract shall commence with effect from the first day of the month following the officer's acceptance of the offer of contract employment and the day immediately preceding the date of the commencement of the contract shall be regarded as the date of retirement for the purposes of this Schedule and any leave due to the officer on such date shall not form part of the pensionable service of the officer for the purposes of such Schedule but shall be deemed to have accrued under the contract.

(2) An entitled officer who has retired under this Schedule and who is re-engaged on contract terms shall be entitled during the period of the contract both to any pensions or allowance payable to him under this scheme and to his remuneration under the contract.

**Special Gratuity for Certain Officers**

14. (1) Where any entitled officer to whom Part III of the Second Schedule to the Pensions (Consolidation) Law, 1965, applies retires under this Schedule and is granted by any government or other authority that is a Scheduled Government for the purposes of that Part both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity which may otherwise be granted him under this Schedule) a gratuity equal to the amount (if any) by which the amount produced by –

- (a) subtracting the annual amount of the pension granted to him by the Scheduled Government from the annual amount of the pension that would have been granted to him by that Government had he not elected to receive the gratuity granted to him by the Scheduled Government; and
- (b) multiplying the resulting amount by the appropriate factor prescribed in the Appendix;

exceeds the amount of the gratuity granted to him by the Scheduled Government.

**Penalty for Breach of Undertakings**

15. Notwithstanding anything to the contrary in this Schedule, where an entitled officer has on or after the operative date been required as a condition of an offer of promotion to undertake to serve the Government of Botswana for a period of not less than twenty-four months' resident service beginning from the effective date of promotion or the operative date, whichever is the later, and who has accepted such offer, breaks his undertaking, his pensionable emoluments for the purposes of this Schedule (other than for the purposes of paragraph 5) shall be calculated in accordance with the provisions of the Pensions (Consolidation) Law, 1965, and the provisions of the first proviso to paragraph 10 shall not apply in relation to such officer.

**APPENDIX****Commutation of Pension Under Compensation Arrangements**

Table Showing the Lump Sum to be paid for the  
Commutation of Each £1 p.a. of Pension

<i>Age of Officer</i>	<i>Factor</i>	<i>Age of Officer</i>	<i>Factor</i>
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53	12.50
39	15.24	54 or over	12.50

**INSTRUCTIONS FOR OBTAINING THE APPROPRIATE FACTOR FOR  
COMMUTATION**

I. Read off the table the factor for the officer's age —

- (a) at his last birthday;
- (b) at his next birthday;

**B.228**

II. Divide the difference between I(a) and I(b) by twelve and multiply by the number of completed months of age since the last birthday.

III. Subtract II from I(a) which is the factor required.

In calculating factors by interpolation in respect of this table the calculations should be rounded off to two decimal points and where this results in a difference of point nought one in either direction such difference should be ignored.

Passed by the National Assembly this day, the 31st August, 1967.

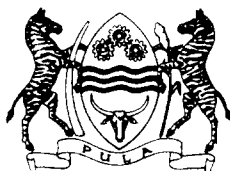
G.T. MATENGE,  
Clerk of the National Assembly.



B.229

**THE NATIONAL ASSEMBLY (SALARIES AND ALLOWANCES)  
(AMENDMENT) ACT, 1967.**

No. 44



of 1967

**AN ACT TO AMEND THE LEGISLATIVE ASSEMBLY (SALARIES AND ALLOWANCES) LAW, 1965.**

Date of Assent: 19.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

**Short Title and Commencement**

1. This Act may be cited as the National Assembly (Salaries and Allowances) (Amendment) Act, 1967, and shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

**Amendment of Long Title of Law No. 24 of 1965**

2. The Legislative Assembly (Salaries and Allowances) Law, 1965, (hereinafter referred to as the principal law) is amended in the Long Title by the deletion of "Legislative" and the substitution of "National".

**Amendment of Section 1 of Law No. 24 of 1965**

3. The principal law is amended in section 1 by the deletion of "Legislative" and the substitution of "National".

**B.230**

**Amendment of Section 2 of Law No. 24 of 1965**

4. The principal law is amended in section 2 —

(a) in the definition of "Assembly" by the deletion of "Legislative" and the substitution of "National";

(b) by the insertion of the following definition —

"Leader of the Opposition" means the person designated by the Speaker of the Assembly as Leader of the Opposition;"

**Amendment of Section 3 and 6 of Law No. 24 of 1965**

5. The principal law is amended in sections 3 and 6 by the deletion of "Parliamentary Secretary" wherever it appears and the substitution of "Assistant Minister".

**Amendment of Schedule of Law No. 24 of 1965**

6. The Schedule of the principal law is amended —

(a) by the deletion of paragraph 1 and the substitution of —

**"Salary**

1. Every member shall receive a salary calculated as follows; that is to say —

(a) in the case of the President, at the rate of six thousand two hundred and fifty rand a year;

(b) in the case of the Vice President, at the rate of five thousand five hundred rand a year;

(c) in the case of any other Minister, not being an Assistant Minister, at the rate of five thousand rand a year;

(d) in the case of an Assistant Minister, at the rate of two thousand five hundred rand a year;

(e) in the case of the Leader of the Opposition, at the rate of two thousand rand a year;

(f) in the case of any other member at the rate of one thousand rand a year.";

(b) by the deletion of "Parliamentary Secretary" wherever it appears and the substitution of "Assistant Minister".

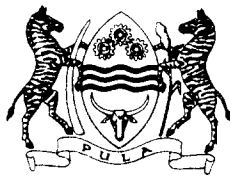
Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

**B.231**

**THE ANTHROPOLOGICAL RESEARCH ACT, 1967**

No. 45



of 1967

**AN ACT TO REGULATE ANTHROPOLOGICAL RESEARCH**

Date of Assent: 11.10.67.

Date of Commencement: 20.10.67.

ENACTED by the Parliament of Botswana.

**Short Title.**

1. This Act may be cited as the Anthropological Research Act, 1967.

**B.232**

**Definition.**

2. In this Act —

“anthropological research” means investigation or research of a physical anthropological, social anthropological, cultural anthropological, sociological, physiological, group psychological, linguistic, ethnological, ethnographical, or ethno-historical nature and includes research into the human geography and human ecology of any area.

**Regulation of Anthropological Research.**

3. (1) No person shall conduct anthropological research —

- (a) by residing in, near, or among any community which is the subject of the research; or
- (b) by means of the questioning of informants; or
- (c) by means of the physical examination of individuals including the measurement of their physical traits; or
- (d) by inducing persons to submit themselves to experiment;

unless the permission of the Minister is first had and obtained:

Provided that nothing in this section shall prevent the undertaking of any investigation or research within a school, training college, university or other institution, of a nature normally undertaken within such places, or the conducting by an employer of any research designed to promote the efficiency of his employees, or the conducting by any local, statutory or traditional authority of research for the purpose of the better performance of its functions.

(2) The Minister may refuse to grant permission under this section if he is of the opinion —

- (a) that the person seeking to conduct research has not the qualifications to enable him to do so adequately; or
- (b) that the person seeking to conduct research is for any other reason not a fit and proper person to conduct research; or
- (c) that the nature of the research or the circumstances thereof are such as to make it probable that the life of any community or of any of the inhabitants thereof may be disrupted to an extent not justifiable in relation to the probable results of the research; or
- (d) that by reason of the moneys, equipment, or time at the disposal of the person conducting the research it is unlikely that the research will be conducted in an efficient or proper manner; or
- (e) there is a reason to fear for the safety of the person conducting research.

(3) Where the Minister grants permission for the purposes of this section he may do so subject to the conditions —

- (a) relating to the time, place and manner of research ;
- (b) providing for the submission of reports on the progress, information obtained, and results of the research.

(4) Any person who conducts anthropological research in contravention of the provisions of subsection (1), or who contravenes any condition imposed by the Minister under subsection (3), shall be guilty of an offence and shall be liable to a fine not exceeding R200.

**Entry upon Land.**

4. The permission of the Minister in terms of section 3 shall not be deemed to authorize the entry of any person upon land, other than State land, without the permission of the owner or occupier thereof.

**Entry into Defined Areas of Persons who are not Citizens of Botswana**

5. (1) The Minister may by regulation impose restrictions on the entry into or residence within defined areas of Botswana of persons who are not citizens of Botswana to the extent that such restrictions are reasonably required for the better carrying into effect of the purposes of this Act.

(2) A regulation made in accordance with the provisions of subsection (1) may make provision for the imposition of a fine, not exceeding R500, in the event of its contravention.

Passed by the National Assembly this day, the 31st August, 1967.

**G.T. MATENGE,**  
Clerk of the National Assembly.



B.235

**THE INCOME TAX (RATES) ACT, 1967**

No. 46



of 1967

**AN ACT TO FIX THE RATES OF INCOME TAX TO BE LEVIED IN RESPECT OF THE YEAR OF ASSESSMENT ENDING ON THE 30TH DAY OF JUNE, 1967**

Date of Assent:

Date of Commencement:

ENACTED by the Parliament of Botswana.

**Short Title and Application**

1. This Act may be cited as the Income Tax (Rates) Act, 1967, and shall apply to assessments for the year of assessment ending on the 30th June, 1967.

**Interpretation**

2. In this Act, unless the context otherwise requires –

“external company” means a company which is incorporated or otherwise established outside Botswana;

and other expressions have the meanings respectively assigned thereto in the Income Tax (Consolidation) Proclamation, 1959 (No. 81 of 1959) (hereinafter referred to as the principal law).

**Rates of Income Tax**

3. In terms of section 6(2) of the principal law the rates of income tax to be levied for the year of assessment ending on the 30th June, 1967, shall be –

## B.236

- (a) in the case of private companies, other than external companies –
  - (i) for the first five thousand rand of taxable income, twenty cents for every rand thereof; and
  - (ii) for the excess of taxable income over five thousand rand, thirty cents for every rand thereof;
- (b) in the case of companies other than those mentioned in paragraph (a), for each rand of taxable income, thirty cents;
- (c) in the case of persons ordinarily resident in Botswana other than companies, as prescribed in the Schedule:

Provided that there shall be added to the amount of tax so determined a sum equal to thirty *per cent* of the net amount arrived at after deducting the rebates provided for in section 8 of the principal law from the amount of tax so determined;

- (d) in the case of persons not ordinarily resident in Botswana other than companies, as prescribed in the Schedule:

Provided that –

- (i) there shall be added to the amount of tax so determined a sum equal to thirty *per cent* of the net amount arrived at after deducting the rebates provided for in section 8 of the principal law from the amount of tax so determined;
- (ii) where any taxable income after deducting the rebate provided for in section 8 of the principal law is reduced to such an amount as would, but for the provisions of this proviso, yield less than three *per cent* on the gross taxable income, there shall be levied an income tax at the rate of three *per cent* on the gross taxable income.

### Presumptions

4. For the purposes of this Act a person having an address outside Botswana shall be deemed, until the contrary is proved, to be not ordinarily resident in Botswana or, in the case of a company, to be an external company.



SCHEDULE			
Taxable Income		Rates of Tax in respect of Married Persons	
Where the taxable income does not exceed R600		6% of each R1 of taxable income	
exceeds R 600 but not R 1,000		R 36 plus 7% of the amount by which taxable income exceeds R 600	600
exceeds R 1,000 but not R 1,200		R 64 plus 8% of the amount by which taxable income exceeds R 1,000	1,000
exceeds R 1,200 but not R 2,400		R 80 plus 8% of the amount by which taxable income exceeds R 1,200	1,200
exceeds R 2,400 but not R 3,000		R 176 plus 8% of the amount by which taxable income exceeds R 2,400	2,400
exceeds R 3,000 but not R 4,600		R 224 plus 9% of the amount by which taxable income exceeds R 3,000	3,000
exceeds R 4,600 but not R 5,000		R 368 plus 16% of the amount by which taxable income exceeds R 4,600	4,600
exceeds R 5,000 but not R 6,000		R 432 plus 25% of the amount by which taxable income exceeds R 5,000	5,000
exceeds R 6,000 but not R 8,000		R 682 plus 29% of the amount by which taxable income exceeds R 6,000	6,000
exceeds R 8,000 but not R10,000		R1,262 plus 35% of the amount by which taxable income exceeds R 8,000	8,000
exceeds R10,000 but not R12,000		R1,962 plus 39% of the amount by which taxable income exceeds R10,000	10,000
exceeds R12,000 but not R14,000		R2,742 plus 40% of the amount by which taxable income exceeds R12,000	12,000
exceeds R14,000 but not R16,000		R3,542 plus 44% of the amount by which taxable income exceeds R14,000	14,000
exceeds R16,000 but not R18,000		R4,422 plus 47% of the amount by which taxable income exceeds R16,000	16,000
exceeds R18,000		R5,362 plus 50% of the amount by which taxable income exceeds R18,000	18,000
Taxable Income		Rates of Tax in respect of persons who are not Married	
Where the taxable income does not exceed R600		7½% of each R1 of taxable income	
exceeds R 600 but not R 1,000		R 45 plus 9% of the amount by which taxable income exceeds R 600	600
exceeds R 1,000 but not R 1,200		R 81 plus 9% of the amount by which taxable income exceeds R 1,000	1,000
exceeds R 1,200 but not R 2,400		R 99 plus 9% of the amount by which taxable income exceeds R 1,200	1,200
exceeds R 2,400 but not R 3,000		R 207 plus 10% of the amount by which taxable income exceeds R 2,400	2,400
exceeds R 3,000 but not R 4,600		R 267 plus 11% of the amount by which taxable income exceeds R 3,000	3,000
exceeds R 4,600 but not R 5,000		R 443 plus 18% of the amount by which taxable income exceeds R 4,600	4,600
exceeds R 5,000 but not R 6,000		R 515 plus 26% of the amount by which taxable income exceeds R 5,000	5,000
exceeds R 6,000 but not R 8,000		R 775 plus 30% of the amount by which taxable income exceeds R 6,000	6,000
exceeds R 8,000 but not R10,000		R1,375 plus 36% of the amount by which taxable income exceeds R 8,000	8,000
exceeds R10,000 but not R12,000		R2,095 plus 41% of the amount by which taxable income exceeds R10,000	10,000
exceeds R12,000 but not R14,000		R2,915 plus 42% of the amount by which taxable income exceeds R12,000	12,000
exceeds R14,000 but not R16,000		R3,755 plus 45% of the amount by which taxable income exceeds R14,000	14,000
exceeds R16,000 but not R18,000		R4,655 plus 48% of the amount by which taxable income exceeds R16,000	16,000
exceeds R18,000		R5,615 plus 50% of the amount by which taxable income exceeds R18,000	18,000

Passed by the National Assembly this day, the 31st August, 1967.

Clerk of the National Assembly.



B.239

**THE FAUNA CONSERVATION (AMENDMENT) ACT, 1967**

No. 47



of 1967

**AN ACT TO AMEND THE FAUNA CONSERVATION PROCLAMATION, 1961**

Date of Assent: 19.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

**Short Title and Date of Commencement**

1. (1) This Act may be cited as the Fauna Conservation (Amendment) Act, 1967.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

**Amendment of Section 2 of Proclamation 22 of 1961**

2. Section 2 of the Fauna Conservation Proclamation, 1961, (hereinafter referred to as the principal law) is amended in subsection (1) —

(a) by the insertion after the definition of “close season” of —

“ “conserved animal” in relation to any area, means any animal which in terms of section 12 is a conserved animal in that area;”;

(b) by the deletion in the definition of “ “game” or “game animal” ” of “Protected Game” and the substitution of “a conserved animal or protected game”;

(c) by the insertion after the definition of “professional hunter” of —

“ “protected game” in relation to any area, means any animal which in terms of section 12 is protected game in that area;”;

(d) by the deletion of the definition of “Protected Game”;

(e) by the deletion in the definition of “unscheduled animal” of “other than a bird”.

**B.240**

**Replacement of Section 3 of Proclamation 22 of 1961**

3. Section 3 of the principal law is repealed and the following section is substituted —

**“Appointment of officers**

3. (1) The Minister may appoint an officer in the public service to be Chief Game Warden.

(2) The Minister shall appoint suitable persons to be licensing officers for the purposes of this Proclamation in and for such areas of Botswana as he may direct.”.

**Amendment of Section 4 of Proclamation 22 of 1961**

4. Section 4 of the principal law is amended —

(a) by the deletion in the head-note of “to Africans”;

(b) by the deletion of subsection (2) and the substitution of —

“(2) The provisions of Parts I, II and III of this Proclamation shall not apply in the case of land proclaimed a National Park under the provisions of the National Parks Act, 1967.

(3) Subject to the provisions of any regulation to the contrary regulating the terms and conditions of hunting within a controlled hunting area, nothing in this Act shall render unlawful the hunting on State land of an animal, other than a conserved animal, by a person belonging to a community which is entirely dependent for its living on hunting and gathering veld produce, and who is himself so dependent, where the animal is hunted for the reasonable food requirements of the hunter or of the members of the community to which he belongs.

(4) Where terms and conditions have been prescribed in terms of section 11 in respect of any controlled hunting area the President may, by notice in the Gazette, order that the provisions of section 14 and, additionally or alternatively, any or all of the provisions of Part III (other than sections 34 and 35 as read with 36 and 37) shall not apply to such area.

(5) Without derogating from the generality of the powers conferred in subsection (1) a regulation made in pursuance of the powers conferred by that subsection as read with section 93 may fix the fees payable for any licence or permit issued in terms of the regulations.

(3) Any person who contravenes the provisions of this section or of any regulation made under this section as read with section 93 shall be guilty of an offence and liable to the penalties prescribed in section 11 (2).”.

**Amendment of Section 11 of Proclamation 22 of 1961**

5. Section 11 of the principal law is amended by the deletion of subsection (1) and by the substitution of —

"(1) Subject to the provisions of section 4 (2) and of sections 34 and 35 as read with sections 36 and 37 no person shall hunt or capture any animal in any controlled hunting area except in accordance with such regulations as may be prescribed for that area.

(1a) Where any regulations of the nature described in subsection (1) make provision for the issue of a permit or licence, a fee in such amount as may be prescribed may be charged for such permit or licence.

(1b) The President may, by order in the *Gazette* direct that any fee prescribed under the provisions of subsection (1a) as read with section 93 shall be payable to the District Council specified in that order."

#### **Replacement of Part II of Proclamation 22 of 1961**

6. Part II of the principal law is repealed and the following Part is substituted —

### **"PART II**

#### **CONSERVED ANIMALS – PROTECTED GAME**

##### **Conserved animals and protected game**

12. (1) The animals specified in the first column of Part I of the Second Schedule shall be conserved animals throughout Botswana unless an area is or areas are specified in the second column of that Schedule opposite the name of any animal and in that event such animal shall be a conserved animal in the area or areas so specified.

(2) The animals specified in the first column of Part II of the Second Schedule shall be protected game throughout Botswana unless an area is or areas are specified in the second column of that Schedule opposite the name of any animal and in such event the animal shall be protected game in the area or areas so specified.

(3) The Minister may at any time by notice in the *Gazette* add to or amend the Second Schedule or may replace the whole or any part thereof.

##### **Prohibition of hunting or capturing conserved animals**

13. (1) No person shall, except under and in accordance with the terms and conditions of a permit issued under section 34, hunt or capture any animal in any area within which it has been declared a conserved animal under this Proclamation.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable —

(a) on a first conviction, to a fine not exceeding eight hundred rand, or, in default of payment thereof to imprisonment not exceeding two years, or to

such imprisonment without the option of a fine or to both such fine and imprisonment;

- (b) on a second or subsequent conviction, to a fine not exceeding one thousand five hundred rand, or in default of payment thereof to imprisonment not exceeding three years, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

**Prohibition of hunting or capturing protected game**

14. (1) Save as is otherwise provided in this Proclamation, no person shall, except under and in accordance with the terms and conditions of a permit issued under section 84, hunt or capture any animal in any area within which it has been declared protected game under this Proclamation.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable —

- (a) on a first conviction to a fine not exceeding six hundred rand, or, in default of payment thereof to imprisonment not exceeding one year, or to such without the option of a fine or to both such fine and imprisonment;
- (b) on a second or subsequent conviction to a fine not exceeding one thousand rand, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine or to both such fine and imprisonment.”.

**Amendment of Section 15 of Proclamation 22 of 1961**

7. Section 15 of the principal law is amended in subsection (2) —

- (a) by the insertion in paragraph (c) after “unscheduled animal” of “other than one of a kind, but not of the age or sex, specified in the Third Schedule,”;
- (b) by the addition of the following paragraph —  
“(d) if the contravention is in respect of an unscheduled animal, and that animal is of a kind, but not of the age or sex, specified in the Third Schedule, to the penalty prescribed in this subsection for the hunting or capturing of an animal of the age or sex so specified.”.

**Amendment of Section 16 of Proclamation 22 of 1961**

8. Section 16 is amended in subsection (2) by the insertion after “Fourth Schedule” of “or in Part I of the Second Schedule”.

**Amendment of Section 31 of Proclamation 22 of 1961**

9. Section 31 of the principal law is amended —

- (a) in subsection (1) by the deletion of “therein.” and the substitution of “therein, other than conserved animals.”;

the Minister of the Environment, "Minister" means a person for the time being holding that office.

#### Amendment of Section 31 of Proclamation 22 of 1961

- (a) in paragraph (a) the word "Minister" is deleted;
- (b) in paragraph (a) the words "Minister" are replaced by the words "Chief Game Warden";
- (c) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (d) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (e) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (f) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (g) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (h) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (i) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (j) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (k) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (l) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (m) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (n) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (o) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (p) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (q) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (r) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (s) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (t) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (u) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (v) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (w) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (x) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (y) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";
- (z) in paragraph (a) the words "in the report" are replaced by the words "in the report of the Chief Game Warden";

#### Amendment of Section 35 of Proclamation 22 of 1961

11. Section 35 of the principal law is amended in paragraph (a) by the deletion of "Protected Game" and the substitution of "conserved animals or protected game".

#### Amendment of Section 39 of Proclamation 22 of 1961

12. Section 39 of the principal law is amended by the deletion of subsection (3) and by the substitution of —

"(3) Where under the provisions of this section a person is required to keep a register he shall —

- (a) where an animal is killed or deemed to have been killed by him, at the time of killing and, in any event before the animal is moved or dismembered;
- (b) where the provisions of section 52 (4) are applicable, as soon as pursuit of the injured animal is abandoned;

record such event in such register and shall record the date on which the event happened."

B.244

**Amendment of Section 41 of Proclamation 22 of 1961**

13. Section 41 of the principal law is amended in subsection (2) by the deletion of "Protected Game" and by the substitution of "conserved animal or protected game".

**Amendment of Section 56 of Proclamation 22 of 1961**

14. Section 56 of the principal law is amended —

(a) in subsection (1) by the addition after paragraph (c) of —

"(d) in any motor vehicle or mechanically propelled vessel approach any animal for the purpose of hunting or capturing the animal nearer than 200 yards.";

(b) in subsection (2) in paragraph (b) by the insertion after "Fourth Schedule" of "or in Part I of the Second Schedule".

**Amendment of Section 57 of Proclamation 22 of 1961**

15. Section 57 of the principal law is amended by the addition of the following subsection —

"(4) Nothing in this section shall render unlawful —

(a) the use of a poisoned weapon, pitfall, stake, trap, snare, fence or enclosure (other than a trap or snare of a type manufactured for commercial purposes or a wire snare, fence or enclosure);

(b) the possession of a poisoned weapon, trap or snare (other than a trap or snare of a type manufactured for commercial purposes or a wire snare);

by a person, belonging to a community which is entirely or mainly dependent for its living upon hunting and gathering veld produce, and who is himself so dependent, within any area, not being private land, where the user or possessor is entitled to hunt."

**Amendment of Section 60 of Proclamation 22 of 1961**

16. Section 60 of the principal law is amended in subsection (3) by the deletion of "licence." and by the substitution of "or curio maker's licence."

**Amendment of Section 61 of Proclamation 22 of 1961**

17. Section 61 of the principal law is amended in subsection (1) by —

(a) the deletion of "(other than an African in a tribal territory or on State land)";

(b) the deletion of "sixty" and the substitution of "sixty or by virtue of an order under section 4 (4):".



**Amendment of Section 63 of Proclamation 22 of 1961**

18. Section 63 of the principal law is amended by the addition of the following subsection —

“(3) No permit shall be granted under the provisions of subsection (1) in respect of any animal, trophy or meat which is prescribed as a prohibited animal, trophy or meat for the purposes of this section otherwise than in accordance with such exceptions or conditions as may be prescribed.”.

**Amendment of Section 64 of Proclamation 22 of 1961**

19. Section 64 of the principal law is amended in subsection (1) —

(a) by the deletion of “animals,”;

(b) by the deletion of “any animal,” wherever it appears in the proviso.

**Substitution of Section 64A of Proclamation 22 of 1961**

20. Section 64A of the principal law is repealed and the following section is substituted —

“64A. The Minister may, by notice in the *Gazette*, at any time vary the rate of export duty payable under the provisions of the Ninth Schedule as read with the provisions of section 64 and may, in like manner, vary or amend the provisions of that Schedule:

Provided that no such notice which has the effect of increasing the rate of duty in respect of any item in that Schedule, or of adding an additional item to the Schedule, shall be brought into operation until the expiration of two months after the publication of the notice in the *Gazette*.”.

**Amendment of Section 65 of Proclamation 22 of 1961**

21. Section 65 of the principal law is amended —

(a) in subsection (3) by the deletion of “licence.” and by the substitution of “or curio maker’s licence.”;

(b) by the insertion after subsection (3) of the following subsection —

“(3a) No person other than the holder of a trophy dealer’s licence shall employ or engage any person, not being a member of his immediate family, to manufacture any article from any trophy.”.

**Amendment of Section 66 of Proclamation 22 of 1961**

22. Section 66 of the principal law is amended —

(a) in subsection (1) by the addition at the end thereof “and may be issued subject to such conditions as may in each case be imposed by endorsement on the licence restricting the classes of trophies in which the trophy dealer may carry on business”;

B.246

(b) by the addition of the following subsection —

“(6) The Minister may cancel a trophy dealer's licence where the holder is guilty of any offence under this Proclamation or under the National Parks Act, 1967”.

**Insertion of Section 67A in Proclamation 22 of 1961**

23. The principal law is amended by the insertion after section 67 of the following new section —

“67A. (1) A curio maker's licence, in such form as may be prescribed by regulation, may be issued by a licensing officer, upon application.

(2) A curio maker's licence shall entitle the holder to purchase trophies in such amount and of such description as may be specified in the licence, to manufacture article therefrom or from such other trophies as may lawfully be in his possession, and to sell the articles so manufactured in such quantity or to the extent specified in the licence.

(3) No person shall transfer a curio maker's licence to any other person, and no person, except the person to whom it is issued, shall make use of any curio maker's licence.

(4) Any person who contravenes the provisions of subsection (3) of this section shall be guilty of an offence and liable to a fine not exceeding two hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

(5) The holder of a curio maker's licence shall not be authorized thereby to sell articles manufactured thereunder from any shop or other fixed premises.

(6) The fees payable in respect of a curio maker's licence shall be those specified in the Fifth Schedule.

(7) A curio maker's licence shall be valid for one year from the date on which it is issued or for such lesser period as may be stipulated therein.

(8) A curio maker's licence shall not authorize any person other than the holder or member of his immediate family to manufacture articles from trophies on the holder's behalf.”.

**Amendment of Section 80 of Proclamation 22 of 1961**

24. Section 80 of the principal law is amended in subsection (11) —

(a) by the insertion after “animals” of “or where animals may reasonably be expected to be,”;

(b) by the deletion of “and such person has not obtained the permission of the owner or occupier of such land to be on such land”;

In place of Section 88A and 88B in Proclamation 22 of 1961

The principal law is amended by the insertion of the following provisions:

#### **Keeping of animals**

(1) No person shall, let alone cause any person to let or cause any animal to be let or caused to be a animal kept under the provisions of the principal Proclamation (Cap. 148) save as may and in accordance with a permit issued in writing by the Government, issued by the Minister of Game.

(2) Any person who contravenes any provision of this section may, subject to such conditions or restrictions, not being conditions or restrictions, from time to time provided by the Minister of Game.

(3) Any person who contravenes any provision of this section shall, in addition to any penalty to which he may otherwise be liable under this Act, be liable to a fine not exceeding £500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Keeping of animals**

88B. (1) No person shall keep or possess any live animal.

(2) The provisions of subsection (1) shall not apply in the case of any animal —

- (a) which is kept for the purpose of affording it treatment of a veterinary nature or which, having been acquired for such purpose, cannot reasonably be released;
- (b) which has been lawfully imported into Botswana;
- (c) which has been lawfully captured in terms of this Proclamation;
- (d) which is kept under and in accordance with a permit issued by the Chief Game Warden.

(3) A permit issued by the Chief Game Warden in terms of subsection (2) may be granted subject to such conditions relating to the manner in which the animal is to be kept as the Chief Game Warden may see fit to impose.

(4) No person shall exhibit to the public or any section thereof any animal except in accordance with a permit issued by the Chief Game Warden which may be granted subject to such conditions as to the manner in which the animal is to be kept and the public are to have access to it as the Chief Game Warden may see fit to impose.

(5) Any person who contravenes the provisions of this section or who fails to comply with the provisions of any permit granted under the provisions of this

B.248

section shall be guilty of an offence and liable to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and to such imprisonment."

**Amendment of the First Schedule of Proclamation 22 of 1961**

26. The First Schedule of the principal law is amended by the deletion of item 1 being so much as relates to the Chobe Game Reserve.

**Amendment of the Second Schedule of Proclamation 22 of 1961**

27. The Second Schedule of the principal law is repealed and the following Schedule is substituted —

**"SECOND SCHEDULE  
(section 12)**

**PART I  
CONSERVED ANIMALS**

<i>First Column</i>	<i>Second Column</i>
Antbear	
Brown Hyena	
Cheetah	
Giraffe	
Hippopotamus	
Honey Badger	
Klipspringer	
Oribi	
Pangolin	
Puku	
Rhinoceros	
Yellow-spotted Dassie	

**PART II  
PROTECTED GAME**

<i>First Column</i>	<i>Second Column</i>
Chobe Bushbuck	
Defassa Waterbuck (kobus deffasa)	
Eland	
Elephant (immature specimens and females)	
Klipspringer	
Maanhaar Jackal	
Rhebok	
Roan Antelope	
Sable Antelope"	

**Amendment of Third Schedule of Proclamation 22 of 1961**

28. (1) The Third Schedule is amended in Part A by the deletion of "Pulvos" and the substitution of "Fulvous".

(2) This amendment shall be deemed to have come into operation on the 19th April, 1961.

**Replacement of the Fourth Schedule of Proclamation 22 of 1961**

29. The Fourth Schedule of the principal law is repealed and the following Schedule is substituted —

**"FOURTH SCHEDULE  
(Section 16 and 41)**

Animals which may *not* be hunted by virtue of land-holder's privileges; and

Animals *the destruction of which* must be reported

Any conserved animal  
Chobe Bushbuck  
Elephant  
Klipspringer".

**Amendment of the Fifth Schedule of Proclamation 22 of 1961**

30. The Fifth Schedule of the principal law is amended by the insertion in the part which relates to Fees after that portion which relates to a bird licence of —

**"curio maker's licence**

(section 67A)

gratis"

**Amendment of the Eighth Schedule of Proclamation 22 of 1961**

31. The Eighth Schedule of the principal law is amended by the insertion after "Hyena" of "(other than the Brown Hyena)".

**Replacement of Ninth Schedule of Proclamation No. 22 of 1961**

32. The Ninth Schedule of the Principal law is repealed and the following is substituted.

B.250

"NINTH SCHEDULE  
(Section 64)

EXPORT DUTY ON TROPHIES AND MEAT

PART I  
TROPHIES

A. ANIMAL SKINS

<i>Skin</i>	<i>Export Duty</i>	
	<i>Untanned</i>	<i>Tanned</i>
Aardwolf	R 4.00	R 2.00
Buffalo	R 3.00	R 1.00
Bushbuck	R 2.00	R 1.00
Cats (unspecified)	R 25	10
Crocodile	R 1.00	R 1.00
Dassie (Hyrax)	25	25
Duiker	50	25
Eland	R15.00	R 5.00
Fox, Bat-eared	R 2.00	R 1.00
Fox, Silver (Cape Fox)	R 1.00	50
Gemsbok	R 6.00	R 2.00
Grysbok	50	25
Hartebeest	R 2.00	R 1.00
Hyena, spotted	R 1.00	R 50
Impala	R 1.00	50
Jackal, unspecified	R 1.00	25
Kudu	R 5.00	R 2.00
Lechwe	R 9.00	R 3.00
Leopard	R30.00	R10.00
Lion	R15.00	R 5.00
Lizard (Monitor)	R 2.00	R 2.00
Lynx (Caracal)	R 2.00	R 1.00
Ostrich	R 4.00	R 2.00
Otter	R 2.00	R 1.00
Pig, wild	R 1.00	50
Python	R 1.00	R 50
Reed buck	R 4.00	R 2.00
Roan Antelope	R15.00	R 5.00
Sable Antelope	R15.00	R 5.00
Serval	R 1.00	R 50
Sitatunga	R15.00	R 5.00
Snakes, unspecified	40	10
Springbok	R 1.00	50

**B.251**

<i>Skin</i>	<i>Export Duty</i>	
	<i>Untanned</i>	<i>Tanned</i>
Tsessebe	R 6.00	R 2.00
Warthog	R 1.00	50
Waterbuck	R 6.00	R 2.00
Wildebeest	R 1.00	25
Zebra	R15.00	R 5.00

**B. KAROSSES**

	<i>Export Duty</i>	
	<i>Under 10 sq. ft.</i>	<i>Over 10 sq. ft.</i>
Fox, Bat-eared	R 4.00	R10.00
Jackal, unspecified	R 2.00	R 5.00
Fox Silver	R 3.00	R 7.00
Lynx (Caracal)	R 3.00	R 7.00
Cat, unspecified	R 2.00	R 4.00
Above animals mixed	R 2.00	R 4.00
Leopard	R20.00	R60.00
Lion	R15.00	R30.00

**C. MATS**

Small antelope	R 1.00	R 2.00
One main skin surrounded by lesser skins should be charged at fee for main skin		

**D. MISCELLANEOUS**

	<i>Export Duty</i>
Antelope, Buffalo and Zebra tails	25c
Animal fat	40c per lb.
Animal bones	10c per lb.
Antelope and Buffalo horns	as for the skin unless accompanied by the skin when only skin is charged.
Claws of cats	10c each
Ostrich eggs	20c each
Ostrich feathers	50c per lb.
Porcupine quills	R2.00 per lb.
Antelope & Buffalo feet	10c each
Ostrich feet	25c each

**B. 252**

Elephant feet  
Lion and cats skulls

Ivory

*Export Duty*

R2.00 each

R2.00 each unless obtained  
on licence purchased under  
this Proclamation.

50c per lb.

**PART II**

**MEAT**

Meat (including biltong)

*Export Duty*

Duty at the rate of 40c per  
each pound weight:

Provided that no duty shall  
be paid

(a) on the first 20 lbs.  
of exported meat by any  
person holding a general  
game licence in any year.

(b) on the first 50 lbs. of  
meat exported by any per-  
son in any year after the  
issue to him of his first sup-  
plementary game licence:

Provided further that no one  
shall export free more than  
50 lbs. of meat."

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.



THE NATIONAL PARKS ACT, 1967

No. 48



of 1967

AN ACT FOR THE ESTABLISHMENT OF NATIONAL PARKS AND FOR THE PRESERVATION OF WILD ANIMAL AND FISH LIFE; VEGETATION AND OBJECTS OF SCIENTIFIC INTEREST; AND TO PROVIDE FOR THE CONTROL AND MANAGEMENT OF SUCH PARKS AND FOR MATTERS INCIDENTAL THERETO.

Date of Assent: 19.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

**Short Title and Date of Commencement.**

1. (1) This Act may be cited as the National Parks Act, 1967.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

**Interpretation of terms.**

2. In this Act, unless the context otherwise requires —

“animal” subject to the provisions of section 15 (k), means any reptile, amphibian, mammal or bird, including the eggs and young thereof;

“park” means a national park constituted under this Act;

“park attendant” means any person employed in a park other than a park officer;

“park officer” means —

(a) the Director of National Parks;

(b) the warden of any park;

(c) a game officer as defined in section 2 of the Fauna Conservation Proclamation, 1961;

(d) any other officer in the public service appointed by the Minister to be a park officer for the purposes of this Act;

## B.254

“public notice” means a notice published once in the *Gazette* and at least once during each of three successive weeks in a newspaper circulating in the area to which the notice relates, the first insertion in the newspaper being made in the same week as the publication in the *Gazette*;

“trap” means any net, rod, hook, spring, gin, snare, contrivance or device by means of which an animal can be captured, netted or snared;

“weapon” means any firearm or ammunition therefor or any other instrument capable of propelling a projectile or capable of being propelled or used in such manner that any animal can be killed or injured thereby.

### Constitution of parks.

3. (1) The President may by order in the *Gazette* constitute as a national park for the propagation, protection, and preservation therein of wild animal life, vegetation and objects of geological, ethnological, historical, archaeological, or other scientific interest for the benefit, advantage and enjoyment of the inhabitants of Botswana —

(a) any area of State land; or

(b) any land bequeathed or donated to him or to any other person for all or any of the purposes mentioned in this subsection;

and may give a name to such park or may add any State land or land so bequeathed or donated to a park which shall thereafter form part of such park.

(2) The President shall not constitute as a national park or add to a park any land so bequeathed or donated to any other person or persons unless he is satisfied that such person or all such persons have consented thereto.

(3) The area defined in the Schedule shall be deemed to be a national park constituted under subsection (1) and shall be known as the Chobe National Park.

(4) If it is proposed to recommend to the President the issue of an order under subsection (1), the Minister shall cause public notice of the proposal to be given and shall in such notice call upon any person interested to lodge in writing with him within a reasonable time to be fixed in such notice objections, if any, to the proposal.

(5) Any objections shall be laid before the President for his consideration.

(6) Any order issued in terms of subsection (1) shall be laid before Parliament as soon as may be after it has been published in the *Gazette* and every such order shall, unless confirmed by resolution of Parliament during the session it is so laid before it, lapse and cease to have any effect as from the date of the conclusion of that session.

**Exclusion of land from park.**

4. (1) Subject to the provisions of subsection (2), the President may by order in the *Gazette* declare that any land forming part of a park shall cease to form part of such park.

(2) The provisions of subsection (4), (5) and (6) of section 3 shall apply in relation to any order issued or proposed to be issued in terms of subsection (1).

**Minister to control and manage the parks.**

5. It shall be the function and the duty of the Minister as representing the State to control, manage and maintain the parks for the objects described in section 3.

**Powers of the Minister.**

6. (1) For the purpose of carrying out his functions the Minister shall have power within a park —

- (a) to construct such roads, bridges, aerodromes, soil and water conservation works, irrigation works, buildings and fences and to carry out such other works as he may consider necessary for the purposes of such park ;
- (b) to take such steps as will ensure the security of the animal and vegetable life in such park and the preservation of such park and the animals and vegetation therein in a natural state ;
- (c) to reserve or set aside any area of such park as breeding places for animals and for nurseries for trees, shrubs, plants and flowers ;
- (d) to let sites for the erection of shops, hotels, restaurants or other buildings for the accommodation or recreation of visitors, to let sites to yachting clubs, boating clubs, boat-wrights and persons plying boats for hire and to control the manner in which any such undertaking shall be carried on ;
- (e) to construct, maintain, administer or let hotels, restaurants, rest camps and other buildings or to let accommodation therein ;
- (f) to control the charges which may be made by shop-keepers, hotel keepers, restaurant proprietors, boatwrights and persons plying boats for hire.

(2) The Minister shall also have power —

- (i) to designate an officer in the public service as Director of National Parks ;
- (ii) to delegate to any park officer such of his powers under this Act as he thinks fit ;
- (iii) to sell or exchange any specimen of animal or vegetable life in a park ;
- (iv) to purchase, exchange or otherwise acquire any specimen of animal or

**B.256**

vegetable life which he may consider it desirable to introduce into a park ;

- (v) to authorize any person to take or collect and remove any specimen of animal or vegetable life from a park or to do anything prohibited under section 11 (1) for scientific purposes ;
- (vi) to authorize any scientific investigations on such terms and conditions as he may approve ;
- (vii) to authorize the killing or capturing of animals and the destruction or removal of vegetation in the interest of the conservation of the flora or fauna of the park and of its management and control.

**Freedom from liability.**

7. No liability shall attach to the State or the Minister or any park officer or park attendant for any loss of life or property or damage or injury sustained by any person in a park or beyond the boundaries of any park by reason of the presence, action or depredation of any animal.

**Minister exempt from the provisions of Proclamation 22 of 1961.**

8. In the exercise of his powers under section 6 and section 15 the Minister shall not be subject to the provisions of the Fauna Conservation Proclamation, 1961.

**Possession and delivery of firearms.**

9. Without obtaining an arm certificate or permit under the Arms and Ammunition Proclamation, 1959, to authorize the delivery or possession of firearms, the Minister and any park officer may deliver arms and ammunition to any park attendant which he requires for the performance of his duties as such attendant, and any park attendant may possess such arms and ammunition.

**Entry into park.**

10. (1) Save as is otherwise provided in this Act and notwithstanding the provisions of any other law, no person other than a person in the employment of the Government who enters a park in the execution of his official duty, and any park officer or park attendant shall enter, be or reside in a park except under and in accordance with the permission of the Minister or of any park officer authorized to grant such permission :

Provided that the Minister may by notice exhibited at any entrance to a park grant permission to persons to enter such park on such days and during such hours as may be stated in the notice and subject to such conditions as may be prescribed by regulation.

(2) Permission under subsection (1) may be granted subject to such conditions as may be prescribed by regulation or as may be deemed necessary by the persons granting such permission, and shall be granted only for the purposes of —

- (a) health, study or recreation, or matters incidental thereto ;
  - (b) travel or transport along such roads as may be defined by regulation ; and
  - (c) transacting any lawful business with or concerning any person within a park
- or if the person seeking permission was, or belongs to a community which was resident in the park prior to the date when the park came into being.

**Prohibition of certain acts in park.**

11. (1) Save as is provided in subsection (2), no person other than a park officer or park attendant who is acting under and in accordance with the authority of the Minister or any other employee of the Government acting in the execution of his duty shall —

- (a) convey into a park any weapon, explosive, trap or poison, or be in possession of any such article within a park ;
- (b) within a park be without lawful excuse in possession of or kill, injure, capture or disturb any animal or take or destroy any egg or nest ;
- (c) cause any damage to any object of geological, ethnological, historical, archaeological, or other scientific interest within a park ;
- (d) introduce any wild or domestic animal into a park or permit any domestic animal to stray into a park, or introduce any vegetation into a park ;
- (e) remove from a park any animal or vegetation whether alive, or dead, other than an animal lawfully introduced by such person into such park, or remove from any park any part of an animal ; or
- (f) cut, damage or destroy any tree or other vegetation in a park ;
- (g) remove from a park any object of geological, ethnological, historical, archaeological, or other scientific interest ;
- (h) destroy or deface any object, whether animate or inanimate, in a park ;
- (i) wilfully or negligently cause any veld fire.

(2) It shall be lawful for any person —

- (a) in a park to kill any dangerous animal in defence of human life or to prevent the infliction of personal injury ;
- (b) subject to such conditions as may be prescribed by regulation, to introduce or convey into or through a park any domestic animal or article mentioned in paragraph (a) of subsection (1) or, subject as aforesaid, to be in posses-

**B.258**

sion of any such domestic animal or article within a park ;

- (c) to convey into or through a park, with the permission of the Minister or any park officer authorized to grant such permission, any animal required in connexion with lawful travel or transport in or through a park or lawful residence or sojourn in a park ;
- (d) to fish in any waters in a park in accordance with the provisions of regulations and to remove from a park any fish lawfully caught in the waters in a park.

**Powers of arrest.**

12. (1) Any park officer or park attendant shall, in respect of any offence committed within a park, have the power of arrest and detention conferred upon a peace officer under Part V of the Criminal Procedure and Evidence Proclamation (Cap. 18) and shall further have the power to arrest without a warrant within a park or outside a park within a distance of one mile from the boundary thereof any person suspected upon reasonable grounds of having contravened any of the provisions of this Act.

(2) Any park officer shall have the power to search without a warrant within a park or outside a park within a distance of one mile from the boundary thereof any place, premises, vehicle, tent or receptacle whatsoever suspected upon reasonable grounds of containing any animal or article which may afford any evidence of a contravention of the provisions of this Act, and may seize any such animal or article wherever found.

**Payment of fine without appearance in court.**

13. When any person has been summoned or warned to appear in a Subordinate Court, or has been arrested, or has been informed by a park officer that it is intended to institute criminal proceedings against him, for any offence under this Act the functions of an officer holding a rank or post designated by the President in terms of section 306 (1) of the Criminal Procedure and Evidence Proclamation (Chapter 18) for the purposes of section 306 of that Proclamation may be performed or exercised by any park officer.

**Destruction of domestic animals and vegetation.**

14. (1) Any domestic animal found within a park, except a domestic animal in the lawful possession of a park officer or park attendant, or introduced into a park in accordance with the provisions of section 11 (2) may be destroyed by a park officer or park attendant.

(2) Any vegetation introduced into a park in contravention of this Act may be destroyed by or on the instructions of a park officer.

**Regulations.**

15. The Minister may make regulations in regard to all or any of the following matters —

- (a) the powers and duties of park officers and park attendants in regard to —
  - (i) the exclusion of members of the public from certain areas within a park ;
  - (ii) the killing, capturing or impounding of any animals within a park and the disposal of such animals ;
  - (iii) the burning of grass and the cutting of trees and vegetation within a park ;
  - (iv) the disposal of any animal, vegetable or other product of a park ;
- (b) the conditions subject to which permission to enter, be or reside in a park may be granted under section 10 and the periods or times during which a park or any portion thereof shall be open to the public ;
- (c) the conditions under which prescribed domestic animals or such articles as are mentioned in paragraph (a) of section 11 (1) may be introduced into and conveyed through a park or possessed within a park ;
- (d) the conditions under which the services or attendance of park officers or park attendants may be obtained by any person entering, passing through or sojourning within a park and the fees to be paid in respect of such services or attendance ;
- (e) the fees, if any, to be paid for permission under section 10 to enter or reside in a park, the admission of motor cars or other vehicles and the taking of photographs within a park, or for any other purpose connected with the use and enjoyment of a park ;
- (f) the protection and preservation of a park and of the animal and vegetable life therein in a natural state ;
- (g) the regulation of traffic and carriage of passengers in a park including the prohibition of the use of any road in a park including a public road as defined in the Road Traffic Law, 1963, at specified times, the points by which persons may enter and the roads by which they may pass through a park ;
- (h) the protection from damage or defacement by writing or otherwise of any tree, bridge, rock, fence, seat or other object in a park ;
- (i) the regulation, control, restriction and prohibition of fishing in any waters in a park, the issue of licences for fishing and the fees to be paid for such licences ;
- (j) the regulation, control, restriction and prohibition of boating and yachting on any waters in a park ;

## **B.260**

- (k) the inclusion within the meaning of the word "animal" as defined in section 2 of any invertebrate or class thereof or the withdrawing of any mammal, reptile or bird from the meaning of the word as so defined;
- (l) any matter which may in terms of this Act, be dealt with by regulation or prescribed;
- (m) any park, including the setting up of local committees to advise on the administration of any park and defining the functions of such committees.

### **No mining allowed in park.**

16. Subject to any mining rights lawfully acquired in any area by any person before the date when such area became a park, the acquisition of a prospecting or mining right in terms of the Mines and Minerals Act, 1967 shall be prohibited within a park, except with the written permission of the Minister.

### **Penalties.**

17. (1) Any person who contravenes paragraph (b) of section 11 (1) by killing, injuring or capturing any animal for the time being classed anywhere in Botswana as a conserved animal or protected game under the Fauna Conservation Proclamation, 1961, shall be guilty of an offence and liable —

- (a) on a first conviction, to a fine not exceeding R1,000, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine or to both such fine and imprisonment;
- (b) on a second or subsequent conviction, to a fine not exceeding R1,500 or, in default of payment thereof to imprisonment not exceeding three years, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

(2) Subject to the provisions of subsection (1) any person who contravenes the provisions of sections 10 (1) or 11 (1), or who fails to comply with the terms and conditions of any authority or permission granted by the Minister in terms of this Act shall be guilty of an offence and liable to a fine not exceeding R500 or, in default of payment thereof to imprisonment not exceeding one year, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

(3) Where a person who has previously been convicted of an offence either under this Act or the Fauna Conservation Proclamation involving the unlawful killing or wounding of an animal is convicted of a similar offence under this Act he shall, notwithstanding anything to the contrary in subsection (2), be liable to a fine not exceeding R1,000 or, in default of payment thereof, to imprisonment not exceeding two years, or to such imprisonment without the option of a fine or to both such fine and imprisonment.



(4) In addition to any other penalties which may be enforced under this Act any weapon, explosive, trap or poison used by any person in contravention of this Act, or which forms an element in a contravention of this Act, and any animal or part of an animal obtained by any person in contravention of the provisions of this Act or which has been removed from a park in contravention of of section 11 (1) (e) shall be declared by the court to be forfeited to the State.

(5) Any person who fails to comply with the provisions of a regulation made in terms of section 15 shall be guilty of an offence and liable to such penalties, not exceeding a fine of R200 or, in default of payment, to imprisonment for a period not exceeding six months, as may be prescribed.

#### **Saving of Existing Regulations.**

18. Any regulation made in terms of the Fauna Conservation Proclamation which was applicable to the area described in the Schedule immediately prior to the coming into operation of this Act shall continue in force until it is amended or replaced under this Act and any person contravening such regulation shall be guilty of an offence and be liable to the maximum penalties which may be prescribed under section 17 (5).

### **SCHEDULE** (Section 3)

#### **CHOBE NATIONAL PARK**

The area bounded as follows —

Commencing at a point on the international boundary between the Republic of Botswana and the Caprivi Zipfel, being a point due north-west of Beacon KH 7, situated approximately three hundred and twenty-five yards south-west of the Chobe Hotel on the southern bank of the Chobe River; the border runs in a south-westerly direction following the said international boundary between the Republic of Botswana and the Caprivi Zipfel to a point on the said boundary due north of a beacon situated at Ngoma, the said beacon being a point on Fire-break No. 19; thence due south to the said beacon at Ngoma; thence following the eastern edge of the said fire-break in a southerly direction for a distance of approximately twenty and one half miles; thence due west for a distance of approximately one mile to the north-western lip of the Molapo known as Namuchira; thence following the western edge of the said Molapo known as Namuchira for a distance of approximately six and one half miles to its confluence with the Molapo known as Molapo wa Diphofu, being the point where the resulting Molapo becomes known as the Kashaba Molapo; thence in a south-westerly direction following the north-western edge of the said Kashaba Molapo for a distance of approximately sixteen and one half miles; thence on a bearing of  $296\frac{1}{2}^{\circ}$  for a distance of approximately three miles; thence on a bearing of  $311\frac{1}{2}^{\circ}$  for a distance of approximately four-

**B. 262**

teen and two thirds miles to the point of intersection of the said bearing  $311\frac{1}{2}^{\circ}$  with the southern edge of fire-break No. 23; thence following the southern edge of fire-break No. 23 in a westerly direction for a distance of approximately four and one half miles; thence on a bearing of  $265^{\circ}$  for a distance of approximately three and one quarter miles; thence following a bearing of  $202^{\circ}$  for a distance of approximately one and one half miles; thence due west for a distance of one and three quarters miles; thence in a straight line due north for a distance of approximately four and one quarter miles to the point of intersection of this line and the eastern edge of the motor road from Maun to Kasane; thence following the eastern edge of the said road for a distance of approximately four and one quarter miles to its intersection with south latitude  $18^{\circ} 16'$ ; thence due west following the said parallel of south latitude to its point of intersection with the international boundary between the Republic of Botswana and the Caprivi Zipfel; thence following the said boundary in a westerly direction to its point of intersection with the eastern boundary of the Batawana Tribal Territory; thence due south following the said Batawana Tribal boundary for a distance of approximately thirty-two miles to a beacon situated on the southern edge of a Molapo known as Gatgarra thence following the southern edge of the said Molapo in a south-easterly direction to its point of intersection with the western edge of the sand ridge known as Magwikwe; thence following the western edge of the said sand ridge in a southerly direction to its point of intersection with the parallel of south latitude  $19^{\circ}$ ; thence due east following the said parallel of south latitude to its point of intersection with the meridian  $24^{\circ} 50'$  east; thence in a straight line in a north north-easterly direction to a beacon situated on the south side of the road from Ngwesumba to Nunga and marked "Chobe Game Reserve"; thence in a straight line in a north north-easterly direction to a beacon situated two and three quarter miles east of Tambiko Pan; thence due north to a beacon situated on the south side of the road from Lesuma to Ngwezumba and being three and one half miles east of the road turn-off of the motor road to Serondela from the said road, at Mandabuzi; thence in a straight line to the northern edge of the intersection of fire-breaks No. 17 and No. 8; thence northwards following the western edge of fire-break No. 8 for a distance of approximately four miles one thousand eight hundred feet to its point of intersection with fire-break No. 6; thence following the western edge of fire-break No. 6 in a north-westerly direction for a distance of approximately one mile one thousand seven hundred and sixty feet to its intersection with fire-break No. 7; thence north-westwards following the western edge of fire-break No. 7 for a distance of approximately one mile eight hundred and fifty-nine feet to its point of intersection with fire-break No. 2; thence northwards and north-eastwards following the western edge of fire-break No. 2 for a distance of approximately two miles two thousand eight hundred and forty-three feet to its point of intersection with the main road from Lesuma to Kasane; thence in a westerly and north-westerly direction following the southern edge of the said road from Lesuma to Kasane to its point of intersection with the boundary of the freehold property known as the Chobe River Hotel; thence in a south-westerly direction following the said Chobe River Hotel boundary to beacon

**B.263**

KH 3 being a beacon on the said boundary ; thence in a straight line south-westwards to beacon KH 8 being a beacon situated on the boundary of the leasehold property adjacent to the Chobe River Hotel ; thence in a straight line north-westwards to beacon KH 7 being a beacon on the southern bank of the Chobe River situated approximately three hundred and twenty-five yards south-west of the Chobe River Hotel ; thence in a straight line to the point of commencement.

Note : All bearings are measured on true North. Firebreaks are recorded on Forestry Dept. Map FD 1/9 filed with the Ministry of Agriculture.''.

Passed by the National Assembly this day, the 31st August, 1967.

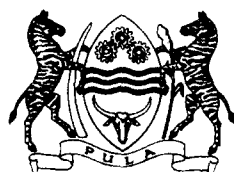
G.T. MATENGE,  
Clerk of the National Assembly.



B.265

**THE MARRIAGE (AMENDMENT) ACT, 1967**

No. 49



of 1967

**AN ACT TO AMEND THE MARRIAGE PROCLAMATION**

Date of Assent: 25.10.67

Date of Commencement: 27.10.67

ENACTED by the Parliament of Botswana.

**Short Title**

1. This Act may be cited as the Marriage (Amendment) Act, 1967.

**Amendment of Section 2 of Cap. 144**

2. Section 2 of the Marriage Proclamation (Cap. 144), (hereinafter called the principal law), is amended by the deletion of "Tswana law or custom" and by the substitution of "any customary law of Botswana".

**Replacement of Section 6 of Cap. 144**

3. Section 6 of the principal law is repealed and the following is substituted—

**"Protection of Minors**

6. (1) Unless the Minister in any case otherwise directs no banns shall be published under section 4 and no special licence shall be issued under section 5—

- (a) with respect to or for the marriage of any widower or widow having minor children of a former marriage, or any children, whether minor or otherwise, of a marriage under any system of customary law, unless such person

**B.266**

produces a certificate issued under section 56 of the Administration of Estates Proclamation (Cap. 83) or, in cases to which that section does not apply, a certificate signed by an administrative officer (other than a cadet) or by a magistrate to the effect that he is satisfied that the inheritances or other properties which have devolved upon such children have been adequately secured;

- (b) with respect to or for the marriage of any other person having minor children of a former marriage under any system of customary law, unless a certificate is produced signed by an administrative officer (other than a cadet) or by a magistrate to the effect that he is satisfied that adequate provision has been made to safeguard the maintenance of such children.

(2) Where a person desiring to marry is resident outside Botswana the certificate required under subsection (1) may be signed by the holder in that person's country of residence of an office which is deemed by the Minister to be equivalent to that of a District Commissioner or of a magistrate."

**Amendment of Section 15 of Cap. 144**

4. Section 15 of the principal law is amended by the deletion of subsection (2) of section 15 and by the substitution of —

"(2) An African may not contract a marriage under this Proclamation unless he or she produces to the marriage officer a declaration in the prescribed form to the following effect —

- (a) that he or she, as the case may be, has never married according to any customary law; or
- (b) that any previous union contracted in accordance with any customary law has been dissolved by death or annulled in accordance with the law, whether customary or otherwise, applicable in the circumstances of his or her case; and
- (c) if he or she has had any children by a customary previous marriage, the names, sex and ages of such children.

(3) Any person who makes a declaration in terms of subsection (2) which he knows to be false or does not believe to be true shall be deemed to be guilty of the crime of perjury."

**Amendment of Section 19 of Cap. 144.**

5. Section 19 of the principal law is amended —

- (a) in the side-note by the deletion of "natives" and by the substitution of "Africans";
- (b) by the deletion of "Tswana law and custom" and by the substitution of "customary law."

B.267

**Addition of New Section 25 to Cap. 144**

6. The principal law is amended by the addition of the following section —

**“Regulations**

25. The Minister may make regulations —

- (a) prescribing any form to be used for the purposes of this Proclamation including the form of any certificate or declaration;
- (b) generally for the better carrying out of the provisions of this Proclamation.”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.





B.269

**THE MINES AND MINERALS ACT, 1967**

No. 50



of 1967

**ARRANGEMENT OF SECTIONS**

**PART I**

**INTRODUCTORY**

1. Short title and Commencement
2. Interpretation of Terms
3. Right of Prospecting and Mining and Disposing of Minerals
4. Appointment etc. of Officers
5. Saving for Tribal Custom

**PART II**

**PROSPECTING RIGHTS**


6. Acquisition of a prospecting right.
7. Rights conferred by a prospecting right
8. Special prospecting licence
9. Prospecting permits
10. Applications for prospecting rights
11. Restriction on grant of prospecting rights etc.
12. Deposit for restoration of surface
13. Areas open for prospecting

## **B.270**

14. Restrictions on prospecting
15. Pegging of claims
16. Manner of pegging
17. Claims not to be pegged at certain times
18. Provision where holder of mineral rights does not avail himself of right to prospect.
19. Transfer of prospecting rights
20. Records of prospecting operations
21. Disposal of minerals obtained under a prospecting right

## **PART III**

### **MINING RIGHTS**

- 
22. Acquisition of a mining right
  23. Rights conferred by a mining right
  24. Mining lease where State has mineral rights
  25. Mining lease where State has not mineral rights
  26. Registration of mining claim
  27. Applications for a mining right
  28. Grounds for refusal of mining right
  29. Certificate of registration
  30. Demarcation of area of mining lease
  31. Holder of mining right to notify Registrar of his address
  32. Mining right held by more than one person
  33. Licence fees
  34. Development work as an entitlement to licence fee refund
  35. Transfer and hypothecation of mining rights
  36. Renewal of mining right
  37. Priorities of titles
  38. Subterranean limits
  39. Excesses in demarcation of a mining area
  40. Returns and reports

## **PART IV**

### **SPECIAL PROVISION RELATING TO CLAIMS**

41. Claim licences
42. Demarcation of claims
43. Diagrams
44. Extension of life of claims
45. Mining sites
46. Cancellation of portion of title

## **PART V**

### **TERMINATION OF MINING RIGHT**

- 47. Lapse of mining right
- 48. Cancellation of mining rights
- 49. Abandonment of mining right
- 50. Duties on lapse of mining right
- 51. Removal of buildings etc.
- 52. Treatment of tailings etc. after lapse of mining right

## **PART VI**

### **ROYALTIES**

- 53. Royalties
- 54. Additional Diamond royalties
- 55. Remission of royalties
- 56. Returns etc.
- 57. Prohibition of disposal of minerals

## **PART VII**

### **FISCAL**

- 58. Duties
- 59. Registration rental

## **PART VIII**

### **RIGHTS OF SURFACE OWNER OR OCCUPIER**

- 60. Rental to owner or occupier of land
- 61. Rights to compensation
- 62. Surface rights of landholder

## **PART IX**

### **SURFACE PROTECTION**

- 63. Protection of cracks, subsidences, shafts and workings
- 64. Mining under roads, buildings etc.
- 65. Underground Boundary pillars
- 66. Alluvial working

**B.272**

**PART X**

**DISPUTES**

- 67. Commissioner may decide disputes
- 68. Procedure before Commissioner
- 69. Records
- 70. Enforcement by courts
- 71. Appeals to High Court
- 72. Saving for other proceedings
- 73. Survey for purposes of hearing of disputes
- 74. Working of mining area under interdict

**PART XI**

**REGISTRATION**

- 75. Register
- 76. Documents to be registered
- 77. Production of documents necessary to deduce title
- 78. Period within which documents are to be registered
- 79. Documents to be void for want of registration
- 80. Priority and date of registration
- 81. Documents giving mining rights may be registered though not required to be registered
- 82. Correction of error or omission in register
- 83. Description of mining or prospecting area etc.
- 84. Identity of person presenting document for registration
- 85. Stamp duties and fees to be paid before registration or issue of certificates
- 86. Copies
- 87. Copies to be furnished
- 88. Details of registration
- 89. Order of filing and numbering
- 90. Memorandum of registration
- 91. Power of registrar if consideration understated
- 92. Documents in foreign language to be accompanied by translation
- 93. Defect in document not used by registration
- 94. Admissibility of certified copy or extract of registered document
- 95. Search of register
- 96. Registration of original grant of prospecting or mining right

**PART XII**

**MINING RECORDS OFFICE**

- 97. Establishment of Mining Records Office

- 98. Certain records to be lodged in the Mining Records Office
- 99. Access to Mining Records Office

**PART XIII**

**ADDITIONAL AND SUPPLEMENTARY**

- 100. Amalgamation of prospecting and mining rights
- 101. Surrender of documents
- 102. Retention of ores and samples
- 103. Discovery of economic minerals to be notified
- 104. Export of radio-active minerals
- 105. Trading on mining areas
- 106. Shaft sinking
- 107. Poisonous substances
- 108. Inspections etc.
- 109. Geological survey
- 110. Register of employees
- 111. Employment of persons who are not citizens of Botswana
- 112. Proceedings in the case of accidents
- 113. Government officers prohibited from acquiring rights
- 114. Forms
- 115. Regulations
- 116. Penalties
- 117. Savings
- 118. Repeals

**FIRST SCHEDULE  
SECOND SCHEDULE  
THIRD SCHEDULE**

**AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO MINES AND MINERALS**

Date of Assent: 1.11.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

## PART I

### INTRODUCTORY

#### Short title and Commencement

1. This Act may be cited as the Mines and Minerals Act, 1967, and shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

#### Interpretation of Terms

2. (1) In this Act, unless the context otherwise requires –

“alluvial” means –

- (a) in relation to precious stones, any deposit either non-coherent or consolidated, of any geological age, which has been formed by the agency of water or wind;
- (b) in relation to any other mineral, any accumulation of sand, gravel or clay deposited by surface water and containing valuable minerals;

“block” means a number of prospecting or mining rights amalgamated or which may be amalgamated under the provisions of section 100;

“claim” means a claim pegged under the provisions of section 15;

“claim licence” means claim licence issued under section 41;

“Commissioner” means the Mining Commissioner;

“diagram” means a document containing geometrical, numerical and verbal representations of a piece of land, which has been signed by a land surveyor and which has been approved or certified by the Surveyor-General or other officer empowered under the Land Survey Proclamation, 1959 (Proclamation 80 of 1959) so to approve or certify a diagram;

“Director” means the Director of Geological Survey;

“holder” in relation to a time other than the present includes the predecessors in title of a holder, as the case may be;

“holder of mineral rights” means the person who in law is the owner of the mineral rights but does not include the holder of a mining or prospecting right;

“instrument” shall include any certificate or written document of whatsoever nature;

“lapse” means the extinguishment of a right whether by the elapse of time, cancellation, forfeiture, abandonment or for any other reason whatsoever;

“lease” includes sub-lease;

“mine” means any working made for the purpose of winning minerals;

“miner” means any person conducting mining operations ;

“mineral” means any constituent of the crust of the earth that can be obtained by mining, digging, drilling, quarrying or other operations and includes precious stones, oil shale, natural oil, natural gas, bituminous shale and brine but excludes –

- (a) water ;
- (b) soil, sand, clay, gravel or stone (other than limestone or marble) if these mineral substances are *bona fide* required for –
  - (i) agriculture ;
  - (ii) building ;
  - (iii) fencing ;
  - (iv) roadmaking ;
  - (v) the manufacture of bricks and tiles ;
  - (vi) the construction of sports fields and airfields ;
  - (vii) the construction of bridges, dams, reservoirs, weirs, canals or other irrigation works ;
- (viii) any other purpose which may be prescribed ;
- (c) such other substances as may be prescribed ;

“mining” includes the working of any dump or tailing ;

“mining area” means the land upon which mining is permitted under a mining right and includes a mining site registered under the provisions of section 45 ;

“mining claim” means mining claim registered under the provisions of section 26 ;

“mining lease” means mining lease granted under section 24 or registered under section 25 ;

“mining right” means mining right acquired under the provisions of Part III ;

“owner” except in the case of crops, trees, buildings or works, in relation to tribal territory means the tribe concerned ;

“peg” means peg a claim under the provisions of section 15 ;

“pipe” includes fissure ;

“private land” means all land other than –

- (a) the tribal territories ;
  - (b) State land which is not occupied by any person under any agreement ;
- “precious metals” means gold, silver, the platinum group of metals and any other substances which the Minister may by order in the *Gazette* declare to

**B.276**

be precious metals for the purposes of this Act;

"precious stones" means rough and uncut diamonds, emeralds, rubies, sapphires and any other substances which the Minister may by order in the *Gazette* declare to be precious stones for the purposes of this Act;

"prospecting permit" means prospecting permit issued under section 9;

"prospecting right" means a prospecting right acquired under the provisions of Part II;

"prospect" means search for minerals or mineral deposits;

"radioactive mineral" means a mineral which contains by weight at least one-twentieth of one per cent (0.05 per cent) or uranium or thorium or any combination thereof, including but not limited to the following –

- (a) monazite sand and other ores containing thorium;
- (b) camotite, pitchblende and other ores containing uranium.

"register" means register under the provisions of Part XI;

"Records Office" means the Mining Records Office established under Part XII;

"Registrar" means the Registrar of Mining Title;

"registry" means the Registry of the Registrar of Mining Title;

"special prospecting licence" means special prospecting licence granted under section 8;

"tribal territory" means –

- (a) tribal territory as defined in the Tribal Territories Proclamation (Chapter 68);
  - (b) the area of the Barolong Farms;
- "will" includes a codicil.

(2) Where any unit of measurement is referred to in this Act the reference shall be construed as a reference to English measure.

(3) The Minister may, by order in the *Gazette*, direct for the whole of Botswana or any portion thereof that where the winning or working of stone, clay, soil, sand or gravel is for the purpose of disposal to another party for profit, such stone, clay, soil, sand or gravel shall be deemed to be a mineral for the purposes of this Act:

Provided that before making any such order which will be of effect in a tribal territory the Minister shall consult with the Chief or Tribal Authority of that territory and the local District Council.



**Right of Prospecting and Mining and Disposing of Minerals**

3. (1) Subject to the provisions of subsection (2) and save as is otherwise provided in this Act the right of prospecting for, mining and disposing of minerals on any land is vested in the State.

(2) Save as is otherwise provided in this Act where mineral rights over any land are held by a person other than the State, the right of prospecting for, mining and disposing of minerals on that land is vested in the holder of the mineral rights:

Provided that the onus of establishing that mineral rights are vested in a person other than the State shall rest on the person alleging such vesting.

(3) The ownership of any mineral which is mined, dealt with or disposed of in contravention of the provisions of this Act shall vest without compensation in the State unless the Minister directs to the contrary.

(4) No State Grant of land issued subsequent to the coming into operation of this Act shall confer on the grantee any right to prospect for, mine or dispose of minerals found in or on such land.

**Appointment etc. of Officers**

4. (1) The Minister may appoint, for the purposes of this Act –

- (a) a Mining Commissioner;
- (b) a Registrar of Mining Title.

(2) The Commissioner, Registrar and Director may, by instrument in writing and with the consent of the Minister, delegate to any public officer any or all of their functions under this Act other than under Part X.

(3) Neither the Commissioner, Registrar nor Director shall be personally liable for, or in respect of, any act or matter done or omitted to be done in good faith in the performance or supposed performance of their functions under this Act.

**Saving for Tribal Custom**

5. Nothing in this Act shall prevent a member of any tribe from taking, subject to such conditions and restrictions as may be prescribed, within his tribal territory, minerals from lands from which it has been the custom of members of the tribe to which he belongs to take minerals and to the extent only that this is permissible under the customary law of that territory.

**PART II**

**PROSPECTING RIGHTS**

**Acquisition of a prospecting right**

6. (1) No person shall prospect for any mineral on any land unless he has obtained, or is deemed to have obtained, a prospecting right for such mineral and on such land under the provisions of this Part.

(2) A prospecting right may be acquired by means of –

- (a) a special prospecting licence issued under the provisions of section 8;
- (b) a prospecting permit issued under the provisions of section 9.

(3) the holder of –

- (a) a mining right shall be deemed to be the holder of a prospecting right over his mining area and in respect of the minerals to which his mining right relates;
- (b) a claim licence shall be deemed to be the holder of a prospecting right over his claim and in respect of the minerals to which the prospecting right under which the claim was pegged related.

(4) Any person prospecting save under and in accordance with the provisions of this Act shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section 116.

**Rights conferred by a prospecting right**

7. (1) Subject to the provisions of section 14 and of any other law the holder of a prospecting right may enter upon the land to which his prospecting right relates together with his servants and agents and may –

- (a) prospect thereon for the mineral or minerals specified in his licence or permit or which he is authorized to prospect for under the provisions of section 6 (3):

Provided that the Commissioner may, by endorsement on his licence or permit and on the registry duplicate thereof authorize the holder to prospect for additional minerals;

- (b) employ in prospecting on such land any number of persons who, for the purpose of prospecting, shall not be required to hold prospecting rights;
- (c) sink shafts or boreholes or wells or dig holes or trenches thereon:

Provided that –

- (i) all such excavations shall, unless the Commissioner otherwise directs,

be fenced and secured and, on the prospector leaving the neighbourhood, filled in in such manner as to prevent persons or livestock inadvertently entering therein;

- (ii) in the case of a trench the earth shall be thrown out in such manner as to form as far as possible regular ridges on either side of the trench;
- (d) peg claims thereon in accordance with the provisions of section 15 in respect of minerals for which he may lawfully prospect and additionally or alternatively make application for a mining right thereon in accordance with the provisions of Part III.

(2) In addition to the rights conferred under subsection (1) the holder of a prospecting right shall have the following ancillary rights –

- (a) he shall be entitled to water for domestic and prospecting purposes in accordance with the provisions of the Water Act, 1967;
- (b) he may erect any temporary buildings for the purposes of his work;
- (c) he may remove, on or before the termination of such work, any buildings which he may have so erected.

(3) Subject to the provisions of this Part the holder of a prospecting right shall not be entitled to use the surface of the land to which he holds such right except for the purpose of prospecting.

(4) The holder of a prospecting right shall not exercise his right to enter upon occupied land under the provisions of this section unless fourteen days prior to effecting entry he serves on the occupier thereof notice in writing of such intention and, on the expiry of the period of notice he shall be entitled to enter upon the land with such persons, animals, vehicles, machinery, appliances, instruments or materials as may be necessary for the purposes of prospecting:

Provided that the notice to such occupier may be dispensed with if the occupier has consented to such entry.

(5) Any person on whom notice is served under the provisions of subsection (4) or who is the owner or occupier of land upon which prospecting operations are being, or to be, carried on may require the holder of the prospecting right to give security in such sum and as the Commissioner may direct for the payment of compensation for the disturbance of surface rights and for any damage done to the lands by prospecting operations thereon, and, if required by the owner or occupier, shall desist from prospecting on the land until such security has been given:

Provided that, in assessing such security regard shall be had to any deposit made or security given under the provisions of section 12.

(6) The holder of a prospecting right shall not prospect within a National Park save under and in accordance with any permission given under section 16

## **B.280**

of the National Parks Act, 1967.

(7) For the purposes of this section "occupied land" does not include any unsurveyed area occupied solely for grazing purposes.

(8) Any holder of a prospecting right who fails to fence or secure an excavation in accordance with the provisions of subsection (1) (c) shall be guilty of an offence and liable on conviction, to the penalties prescribed in section 116.

### **Special prospecting licence**

8. (1) A special prospecting licence shall not be granted save on the authority of the Minister and shall be in the form of a State Grant of Prospecting Rights issued under the hand of the Commissioner.

(2) Subject to the provisions of this Act, a special prospecting licence shall be issued subject to such terms, conditions and restrictions as the Minister may in each case determine.

(3) A special prospecting licence –

- (a) in respect of an area not exceeding 1,000 square miles shall be valid for such period not exceeding three years as the Minister may, in each case, determine:

Provided that the licence may be renewed from time to time on the direction of the Minister for periods not exceeding two years at a time;

- (b) in respect of an area of, or exceeding, 1,000 square miles shall be valid for such period not exceeding two years as the Minister may, in each case, determine:

Provided that the licence may be renewed, on the direction of the Minister, for a further period of one year.

(4) A special prospecting licence shall confer an exclusive right to prospect for the minerals in respect of which it is granted over the area specified therein

(5) Applications for a special prospecting licence shall be considered by the Minister in the order in which they have been lodged with the Commissioner (whose determination in the matter shall be final) and, in granting or refusing any application, the Minister may take into consideration such advice as the Commissioner may tender thereon.

(6) Subject to the provisions of section 18 no grant shall be made under the provisions of this section in respect of land to which the State does not hold mineral rights.

### **Prospecting permits**

9. (1) Subject to the provisions of this Act, the Minister shall issue a prospecting permit to a person making application therefore under the provisions of section 10 to –

- (a) any holder of mineral rights, in respect of the land and minerals to which his rights relate, or to such person as the holder may give authority thereto in writing;
- (b) any person wishing to prospect in an area declared open for public prospecting by notice under the provisions of section 13 in respect of such area and such minerals as may be specified in that notice.

(2) A prospecting permit may be granted to a person, as agent of another person, if such other person submits a written undertaking to be responsible for the acts and omissions of such agent.

(3) A prospecting permit shall be valid for a period of one year from the date of issue.

(4) A prospecting permit shall be produced at the request of –

- (a) any person who is a peace officer as defined in section 3 of the Criminal Procedure and Evidence Proclamation (Chapter 18);
- (b) the owner or occupier of land on which the holder thereof is prospecting.

### **Applications for prospecting rights**

10. (1) A person making application for the grant of a prospecting right under the provisions of sections 8 and 9 shall make application to the Minister through the Commissioner and shall furnish the Commissioner with –

- (a) his full name or, in the case of an application by an association of persons, the full names of such persons or, in the case of an application by a corporate body the full registered name of such body;
- (b) the name, number (if any) and situation of the farm or land in respect of which such right is desired, the size of the area over which a prospecting right is sought and a sketch plan thereof;
- (c) where application is made for a special prospecting licence, full information as to his financial status and, if so required by the Minister, particulars of any guarantees that may be offered for the performance of his obligations under the licence;
- (d) particulars of the minerals for which he wishes to prospect;
- (e) if the applicant is a company, the full names and nationality of the directors and the full names by which those directors have at any time been known in any part of the world;

**B.282**

- (f) where the application is made by the holder of any mineral rights or his assignees proof to the satisfaction of the Commissioner that he holds the mineral rights in respect of which the application is made; and
- (g) such further information as may be required of him by the Minister including details as to the prospecting or mining experience of the applicant.

(2) In the case of an application for the grant of a prospecting permit the Commissioner may dispense with any or all of the provisions of paragraph (b), (d) or (e) of subsection (1).

(3) Any person who in making application for a prospecting right makes any statement which is false or misleading in any material particular shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

**Restriction on grant of prospecting rights etc.**

11. (1) No prospecting right shall be granted to or held by –

- (a) any natural person under the age of eighteen years, unless he is the holder of the mineral rights of the land in respect of which the permit is issued;
- (b) an unrehabilitated insolvent or an undischarged bankrupt whether under the laws of Botswana or elsewhere;
- (c) a person who has, within the previous ten years been convicted of –
  - (i) any offence of which dishonesty is an element;
  - (ii) any offence under this Act, under the Employment Law, 1963 or under analogous provisions in the laws of any foreign or Commonwealth country;

and sentenced therefor to imprisonment without the option of a fine or to a fine in excess of R300.

(2) Except on land to which the State does not hold the mineral rights no person shall prospect for any precious stones, natural oil or natural gas save under and in accordance with a special prospecting licence issued under the provisions of section 8; and no such prospecting licence shall confer the right to prospect for such minerals unless the right is explicitly conferred therein.

(3) Where the holder of a prospecting right is, or becomes, disqualified from holding such prospecting right under the provisions of subsection (1) the Commissioner shall declare the right to be cancelled and, thereupon the right shall be determined:

Provided that before exercising his powers under this subsection the Commissioner shall, where reasonably practicable give the holder of the right the opportunity of making representations thereon.

**Deposit for restoration of surface**

12. (1) The Minister may, as a condition of the grant or issue of a prospecting right require the making of a deposit or the giving of security to the satisfaction of the Commissioner for the rendering safe of any land affected by prospecting operations in accordance with the provisions of section 7 (1) (c):

Provided that in the case of –

- (a) a special prospecting licence the amount of the deposit or security shall not exceed R1.00 for every square mile of the grant, or R100 whichever is the greater or such other amount as may be prescribed;
- (b) a prospecting permit the amount of the deposit or security, shall not exceed R100 or such other amount as may be prescribed.

(2) In the event of the holder of a prospecting right failing to render safe land affected by prospecting operations the Commissioner may himself do so and, in such event, the Commissioner may recover the expenses from the holder by set-off against such deposit or calling upon such security and may in addition, bring action in a court of competent jurisdiction for the recovery of the balance and, in any such action, a certificate by the Commissioner as to the amount owing shall be *prima facie* proof thereof.

(3) On the termination of prospecting operations, unless the deposit paid under subsection (1) is applied in accordance with the provisions of subsection (2) it shall be returned to the depositor.

**Areas open for prospecting**

13. (1) The Minister may by notice in the *Gazette* from time to time declare land open to public prospecting in respect of such minerals as may be specified in the notice and may, in like manner, close any area so opened:

Provided that the closure of an area to prospecting shall not affect any right lawfully acquired in the area during the period when it was open.

(2) Where mineral rights in any land are held by a person other than the State, such land shall not be declared open to public prospecting under the provisions of subsection (1) unless that person consents thereto.

(3) Information as to land open to public prospecting shall be given by the Commissioner on application.

**Restrictions on prospecting**

14. (1) No person shall be entitled to exercise any of the rights conferred under the provisions of section 7 upon the holder of a prospecting right –

- (a) without the written consent of the President, upon –
  - (i) a cemetery or burial ground;

**B.284**

- (ii) any land containing a monument or relic declared as such under the provisions of section 7 of the Bushman Relics Proclamation (Chapter 180) or on any ancient working;
- (iii) any area of land set aside or used for the purposes of the State;
- (b) without the written consent of the owner or occupier thereof or his duly authorised agent in the case of trenching, shaft sinking, borehole drilling or similar prospecting operations –
  - (i) upon any land within two hundred feet of any inhabited or occupied house or two hundred yards of any occupied village or homestead;
  - (ii) upon any works as defined in section 2 of the Water Act, 1967;
  - (iii) upon any cultivated or irrigated land;
  - (iv) upon any land which is the site or within two hundred feet of any cattle dip, well, borehole or reservoir;

Provided that where consent is unreasonably withheld the Minister may authorize prospecting on such land or works, subject to such conditions as he may impose;

- (c) within a distance of 200 yards from the surveyed limits of any township proclaimed under the provisions of the Townships Proclamation (Chapter 120) without the consent of the President or the Town Council concerned;
- (d) without the written consent of the railway administration, upon any land reserved for the purposes of any railway or within fifty yards of any railway;
- (e) upon any street, road or highway or public place without the written consent of the President or of the public body having control thereof;
- (f) upon any land over which any other person holds mining rights without the written consent of such other person;
- (g) upon any claim without the consent of the claimholder;
- (h) upon any land over which any other person holds a special prospecting licence, except in relation to minerals not subject to such licence, without the written consent of such other person;
- (i) upon any land on which material ordinarily used for road making is being worked by the Government or public authority, without the consent of the Minister, or such authority, as the case may be;
- (j) upon land specified by the Minister by notice in the *Gazette* as being land upon which prospecting is prohibited or restricted.

(2) Nothing contained in subsection (1) shall derogate from the rights conferred upon any person by virtue of any agreement or deed of title; and where the consent of the owner or occupier of land is required under subsection (1)



before prospecting operations may take place such owner or occupier shall give his consent in accordance with the terms and conditions of any such agreement or deed.

**Pegging of claims**

15. (1) The holder of a prospecting right shall have the right to peg off, on land which he has the right to enter claims or blocks of claims, each claim not exceeding 90,000 square feet in area:

Provided that in the case of claims pegged to cover the area of a diamond pipe under the provisions of this section as read with section 23 (4) the number of claims shall be such as the Commissioner may, in such case, determine.

(2) A person pegging a claim under the provisions of subsection (1) shall be entitled –

- (a) to exclusive prospecting rights over the area so pegged;
  - (b) to make application for a claim licence under the provisions of Part IV, which application shall be preferent to any other application in respect of the area so pegged.
- (3) The rights conferred in subsection (2) shall lapse –
- (a) if application is not made for a claim licence within thirty days of pegging or within such further period, not exceeding sixty days as the Commissioner may in special circumstances allow;
  - (b) if the application for a claim licence is unsuccessful.

**Manner of pegging**

16. (1) Unless in any special case the Commissioner otherwise permits, a claim or block of claims shall be rectangular in shape, the width of the rectangle being not less than one-third of its length; the boundaries of the claim or block indicated on the ground by corner pegs or beacons and, where a boundary line is more than one thousand feet long, by line pegs or beacons marked “line” and spaced not more than one thousand feet apart.

(2) Pegs used in demarcating a claim or block of claims in accordance with the provisions of subsection (1) shall –

- (a) be not less than two inches in diameter; and
- (b) project not less than three feet above the ground; and
- (c) in the case of corner pegs bear the name of the person by or in whose name the area or claims were pegged, the date of pegging and shall be marked consecutively with the letters of the alphabet from A onwards.

(3) Every corner peg shall bear on it, in addition to its distinguishing letter, the registration number of the prospecting right under which the claim was pegged.

**B.286**

(4) Notice boards affixed to pegs shall be at least nine inches square and any notice thereon shall be printed, painted or embossed and be kept distinct and legible; no paper or other material liable to be washed off shall be attached to the board, and no writing liable to be rendered illegible by rain or exposure shall, except for purely temporary purposes, be deemed to be a proper marking.

**Claims not to be pegged at certain times**

17. (1) No person shall peg any claim under the provisions of section 16 between sunset and sunrise, and any pegging during such time shall be void and of no effect.

(2) No pegging shall be illegal by reason of being done on a Sunday or other *dies non*.

**Provision where holder of mineral rights does not avail himself of right to prospect**

18. (1) The Minister may where –

- (a) the holder of the mineral rights does not avail himself of the right to prospect, or allow prospecting on such lands in respect of any mineral specified by the Minister; or
- (b) such holder, having so availed himself does not carry on or cause to be carried on prospecting on the land in a manner and to a scale which, in the opinion of the Minister, is adequate to secure the efficient development of the mineral resources of such lands;

if after consultation with the Director he has reason to believe that adequate prospecting operations may prove the existence of such specified mineral, cause such holder to be called upon by notice in writing adequately to prospect or cause to be prospected for such specified mineral and to commence such prospecting or cause such prospecting to be commenced within a period specified in the notice, not being less than three months after the date of issue thereof, and may if such mineral is not prospected for on that land to the satisfaction of the Minister or such prospecting is not commenced within the said period or within such further period as the Minister may allow, and after considering any representations in writing by such holder –

- (i) by notice published in such manner as he shall think fit call for tenders for a special prospecting licence over that land in regard to the specified mineral, and may grant such licence over that land in respect of the mineral so specified subject to such conditions as the Minister may determine to any tenderer who satisfies the Minister either that his financial resources are adequate for proper prospecting under such a licence or that the arrangements by which he proposes to obtain capital for the purposes are satisfactory; or
- (ii) without calling for tenders grant a special prospecting licence subject

to such conditions as the Minister may determine over that land in respect of the mineral so specified to any person applying therefore who so satisfies the Minister.

(2) During the currency of any special prospecting licence granted under subsection (1) the holder of the mineral rights or persons authorized by him there-to shall not be entitled to prospect or cause prospecting to be carried out on land included in the licence area save with the written permission of the Minister and in accordance with such conditions as may be set forth in that permission.

(3) Prior to exercising his powers under paragraphs (i) and (ii) of subsection (1) the Minister shall give notice of his intention so to exercise his powers to the holder of the mineral rights and to any person having an interest or right therein; and any such person may, within four weeks of the date of such notice, make application to the High Court for the determination of his interest or right and the legality of the exercise of powers as aforesaid.

#### **Transfer of prospecting rights**

19. (1) A special prospecting licence may not be transferred, assigned, ceded or hypothecated without the consent of the Minister and in accordance with a written agreement registered under the provisions of Part XI.

(2) The holder of a special prospecting licence may, with approval of the Minister, sub-let part or all of his rights under his special prospecting licence and, additionally or alternatively, his rights to any portion of the area to which his special prospecting licence relates :

Provided that any such sub-lease shall not relieve the holder of the special prospecting licence of any obligation imposed upon him by this Act or in terms of the licence.

(3) A prospecting permit shall not be transferable.

(4) No claim pegged under the provisions of section 15 may be transferred, assigned, ceded or hypothecated until and unless a claim licence in respect of the claim is obtained under the provisions of section 41.

(5) Subject to the provisions of this section the subletting, transfer, assignment, cession or hypothecation of a prospecting right or claim (other than a mining claim) or of any interest therein shall be effected by written agreement registered under the provisions of Part XI:

Provided that no such agreement shall be registered where the transferee is disqualified from obtaining a prospecting right under the provisions of this Part.

(6) On effecting registration of an agreement under the provisions of subsection (5) the Registrar shall issue to the transferee a certificate of registration and shall cancel the last issued certificate of registration, if any.

**Records of prospecting operations**

20. (1) The holder of a prospecting right shall keep, to the satisfaction of the Commissioner, full and accurate records of his prospecting operations which shall show –

- (a) boreholes put down;
- (b) strata penetrated;
- (c) minerals discovered;
- (d) the results of any geochemical analysis;
- (e) the results of any geophysical exploration;
- (f) the results of any analysis or identification of minerals removed under the provisions of section 21;
- (g) the number of persons employed;
- (h) work done; and
- (i) such other matters as may be prescribed

and shall supply, at least once in every three months, copies of such records to the Commissioner and Director:

Provided that the Commissioner may, in his discretion and upon application being made to him in that behalf, in any particular case dispense with or modify any or all of the requirements of this subsection.

(2) Records supplied under the provisions of subsection (1) shall, so long as the person supplying the same or his successors in title retain a mining or prospecting right over the area to which the records relate, be treated as confidential and any person who, during the period aforesaid and without the consent of the person supplying such records or his successor in title, communicates the contents, or any part thereof, of such records to any person otherwise than in the course of his duty or on the instructions of a court of law shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section 116:

Provided that where, in the opinion of the Minister, the consent of the person supplying the records or his successor in title is unreasonably withheld the Minister may authorize the communication of the contents of the records or of any part thereof to such person or persons as he may specify.

(3) Any person failing to keep any record in accordance with the provisions of this section or who fails to supply any document which he is required to surrender under the provisions of subsection (1) within fourteen days of being called upon so to do by the Commissioner shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

**Disposal of minerals obtained under a prospecting right**

21. (1) No mineral obtained in the course of prospecting under a prospecting right shall be removed from the land or disposed of by the holder of the right or by any other person except with the consent of the Commissioner, other than for the purposes of assay or identification.

(2) The Commissioner may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody or for the purpose of the bulk treatment of samples subject to such conditions as he may impose.

(3) If the holder of a prospecting right should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application in writing to the Commissioner stating the kind and quantity of minerals in respect of which the application is made and the situation of the land from which the mineral was obtained, and, if the Commissioner is satisfied that the applicant has been conducting only such work as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed taxes and, if not so satisfied, such minerals shall vest in the State.

(4) Any precious stone discovered in the course of prospecting operations which has not previously been lawfully sold or otherwise disposed of shall, within three months of its discovery, be surrendered by the holder of the prospecting right to the Commissioner.

(5) Any person who removes, disposes of, or fails to surrender any mineral or precious stone in contravention of the provisions of this section or of any condition imposed by the Commissioner under subsection (2) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

**PART III**

**MINING RIGHTS**

**Acquisition of a mining right**

22. (1) No person shall mine any mineral, other than in the course of prospecting under the provisions of Part II, unless he has acquired the right to do so under the provisions of this Part:

Provided that the Commissioner may grant permission to an applicant for a mining right to mine on the mining area applied for on such conditions and subject to such restrictions as the Commissioner may think fit.

**B.290**

(2) Any permission granted under subsection (1) may at any time be withdrawn by the Commissioner.

(3) A mining right may be acquired –

(a) under a mining lease issued under the provisions of section 24, or registered under the provisions of section 25;

(b) by the registration of a mining claim under the provisions of section 26.

(4) No mining right may be acquired in any National Park unless permission under section 16 of the National Parks Act, 1967, is first obtained.

(5) Any person mining save under and in accordance with the provisions of this Act shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section 116.

**Rights conferred by a mining right**

23. (1) Subject to the provisions of this Act the holder of a mining right may enter upon his mining area together with his agents and servants and may –

(a) take all reasonable measures on and under the surface of his mining area to mine and process the mineral to which his right relates:

Provided that the Minister may by endorsement on the mining lease or registration certificate as the case may be and on the registry duplicate thereof permit the holder of the mining right to mine and process additional minerals;

(b) erect the necessary equipment, plant and buildings on his mining area for the purpose of transporting, dressing, treating, smelting and refining the mineral or mineral ore recovered by him during his mining operations;

(c) dispose of any minerals, mineral concentrates or mineral ores derived from his mining area;

(d) prospect within his mining area for the mineral which he has the right to mine;

(e) stack or dump any of the products of mining;

(f) erect, construct and maintain houses and buildings for his use and for the use of his agents or servants;

(g) subject to the provisions of the Water Act, 1967, lay water pipes and make water courses and ponds, dams and reservoirs;

(h) construct and maintain all such tramways, roads, communications and conveniences as may be necessary;

(i) take and use water for domestic and mining purposes in accordance with the provisions of the Water Act, 1967;

(2) The rights conferred under this section shall be exercised reasonably and so as to affect injuriously the interests of the owner or occupier of the land on which the mining area is to the minimum extent necessitated by the reasonable and proper conduct of mining operations.

(3) No person shall mine any precious stone, natural oil or natural gas except on land to which the State does not hold the mineral rights save under and in accordance with a mining lease granted under the provisions of section 24 and no such mining lease shall confer the right to mine any such mineral unless such right is explicitly conferred therein.

(4) If a diamond pipe is discovered by the holder of a special prospecting licence entitling him to prospect for diamonds he shall, subject to the provisions of this Part have the right of working the whole of such pipe under such conditions as may be determined in the mining lease or as may be prescribed.

#### **Mining lease where State has mineral rights**

24. (1) The Minister may grant to the holder of a prospecting right (including a prospecting right granted under the provisions of section 6 (3)) a mining right in the form of a State Grant of a mining lease issued under the hand of the Commissioner.

(2) Subject to the provisions of this Act a mining lease issued under the provisions of this section shall be issued subject to such terms, conditions and restrictions as the Minister may in each case determine.

(3) Subject to the provisions of section 36 a mining lease issued under the provisions of this section shall be granted for such period, not being less than five nor more than twenty-one years, as the Minister may determine:

Provided that a mining lease may be granted for a period in excess of twenty-one years where, in the opinion of the Minister, special circumstances justifying such grant exist.

(4) No grant shall be made under the provisions of this section –

- (a) in respect of land to which the State does not possess mineral rights other than to a person to whom a special prospecting licence has been granted under section 18 and in respect of the mineral and land to which such licence relates;
- (b) in respect of land to which any other person possesses a mining right unless the Minister is satisfied that such person will not be prejudiced thereby;
- (c) to any person other than the holder of a prospecting right in respect of the mineral and area to which his right relates:

## **B.292**

Provided that nothing in this paragraph shall prevent the issuing of a State Grant of a mining lease which has the effect of extending any mining area.

### **Mining lease where State has not mineral rights**

25. (1) Subject to the provisions of this Act the holder of mineral rights may lease his right to mine minerals on any land in respect of which he holds mineral rights for a period not exceeding twenty-one years to –

- (a) the holder of a prospecting right over the land concerned;
- (b) the holder of a mining right over the land concerned, or his heirs or assigns;

Provided that a mining lease may be entered into under the provisions of this section for such period in excess of twenty-one years as the Minister may allow where, in the opinion of the Minister, special circumstances justifying a lease for such period exist.

(2) No mining lease entered into under the provisions of subsection (1) shall be of any force or effect unless it is registered by the Registrar on the instructions of the Minister under the provisions of this section.

(3) The Minister may refuse to authorise the registration of a mining lease entered into under the provisions of this section –

- (a) if he is of the opinion that it would be in the public interest to do so;
- (b) under the provisions of section 28;
- (c) where the lease relates to land which is owned or occupied by a person other than the holder of the mineral rights and the terms of the mining lease or the size of the area concerned affect such person to a greater degree than, in the opinion of the Minister, is warranted in the circumstances;

and shall refuse to authorise such registration unless he is satisfied that he may lawfully authorise such registration under the provisions of section 28(2).

### **Registration of mining claim**

26. (1) Where a claim licence has lawfully been issued under the provisions of section 41 the holder of the claim licence shall, subject to the provisions of sections 23 (3), 28 and 41 be entitled to the registration of his claim as a mining claim.

(2) Where the Minister, acting under the provisions of section 27 authorises the registration of a mining claim, such claim shall be registered by the Registrar in accordance with the provisions of Part XI who shall assign such claim a registered number.



### Applications for a mining right

27. (1) A person making application for the grant or registration of a mining right shall make application to the Minister through the Commissioner.

(2) The applicant shall in his application, furnish the Commissioner with –

- (a) his full name or, in the case of an application by an association of persons, the full names of such persons or, in the case of an application by a corporate body, the full registered name of such body;
- (b) the name, number (if any) and situation of the farm or land in respect of which such right is desired and in the case of a mining claim, a sketch plan in such form as the Commissioner may approve showing the area pegged under the provisions of sections 15 and 16, the beacons and points of reference;
- (c) full information as to his financial status and, if so required by the Minister, particulars of any guarantees that may be offered for the performance of his obligations under this Act;
- (d) particulars of the minerals in respect of which the right is sought and of the mineralization of the land in respect of which the right is sought;
- (e) if the applicant is a company, the full names and nationality of the directors and the full names by which those directors have at any time been known in any part of the world;
- (f) where the application is made by the holder of any mineral rights, or his assignees, proof to the satisfaction of the Commissioner that he holds the mineral rights in respect of which the application is made or has obtained from the holder of such rights the authority to make application for the mining right sought;
- (g) the scheme according to which the applicant wishes to mine;
- (h) such further information as may be required of him by the Minister.

(3) The applicant shall, when called on to do so by the Commissioner, furnish to the Commissioner within the time specified by him, a diagram of the mining area in respect of which the application is made; and no mining lease shall be granted or registered, as the case may be, until and unless such diagram is so furnished.

(4) Any person who in making application for a mining right makes any statement which is false or misleading in any material particular shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

## **B.294**

### **Grounds for refusal of mining right**

28. (1) The Minister may direct the Registrar not to register a mining right under the provisions of section 25 or 26 where –

- (a) he is satisfied that there are reasonable grounds for believing that the mineral which it is sought to mine does not occur in workable quantities in or on the land in respect of which the right is to be granted;
- (b) he is satisfied that the scheme according to which the applicant proposes to carry on mining under such right is not satisfactory, and either his technical or financial resources are not adequate for the proper mining of the mineral sought; or that arrangements whereby he proposes to obtain capital for the purpose are not satisfactory;
- (c) the applicant is disqualified from obtaining a prospecting right under the provisions of section 11 (1);
- (d) the applicant has failed in any respect to comply with the provisions of this Act relating to the acquisition of a mining right.

(2) No mining lease shall be granted or registered under the provisions of this Part unless the Minister is satisfied that, in the circumstances of the case it would be inappropriate for the applicant therefor to acquire a mining right by the registration of a mining claim, or unless the applicant is not entitled to peg a claim and register it as a mining claim.

(3) Any applicant for a mining right who considers that any direction under subsection (1) is unreasonable may, within one month of being notified thereof, appeal to the High Court by way of notice of motion addressed to the Minister for an order requesting the Minister to withdraw his direction; and the High Court may make such order in the matter as it thinks fit.

### **Certificate of registration**

29. (1) Where a mining lease is registered under the provisions of section 25 or a mining claim is registered under the provisions of section 26 the Registrar shall issue a certificate of registration to the holder of the mining right.

(2) No mining right shall accrue until the certificate of registration is issued.

### **Demarcation of area of mining lease**

30. (1) On the grant or registration of a mining lease the Commissioner shall give directions as to the manner in which the mining area concerned is to be demarcated.

(2) Failure to demarcate a mining area in accordance with the directions of the Commissioner shall be an offence and the holder of the mining rights shall be liable, on conviction, to the penalties prescribed in section 116.

**Holder of mining right to notify Registrar of his address**

31. (1) Every holder of a mining right shall have an address within Botswana registered with the Registrar to which all communications and notices may be addressed and at which all process may be served.

(2) Notice of the situation of the registered address and of any change therein shall be given within twenty-one days after the date of the acquisition of the mining right, or any change, to the Registrar who shall record the same.

(3) Any person failing to comply with the provisions of this section shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

**Mining right held by more than one person**

32. (1) Upon the grant or registration of a mining right, or at any time thereafter, not more than four natural or artificial persons shall be named as the holders of such right.

(2) Where more than one person is registered as the holder of a mining right, such persons shall, at the time of the grant or registration of the right, register at the offices of the Registrar the name and address of an accredited agent or manager residing within Botswana, and such agent or manager shall, in respect of the period during which his name is so registered, be personally responsible for all acts, matters and omissions in connection with the mining right as if such right were registered in his name as his own property.

(3) The registration of an agent or manager may be revoked at any time by the persons who obtained such registration, or their successors in title, and thereupon another person shall be registered as agent or manager.

(4) A registered agent or manager may at any time resign from his appointment as such by giving to the Registrar notice in writing to that effect, and any such resignation shall become effective for the purposes of this Act at the expiration of a period of forty-eight hours after such resignation is received by the Registrar.

(5) Within forty-eight hours after receipt of a notification from the Registrar of the resignation of an agent or manager under the provisions of subsection (4), the persons who had registered the name of such agent or manager, or their successors in title, shall cause the name and address of some other person to be registered as their agent or manager.

(6) Nothing contained in this section shall be taken in any way to relieve any person of any liability incurred under the provisions of this Act, or of any responsibility imposed on such person in regard to any mining right held by him or it, and where any mining right is held by two or more persons, each such person shall be jointly and severally responsible for every obligation or liability attaching to the holder of such right.

## B.296

(7) Any person failing to register an agent or manager under the provisions of subsections (2), (3) or (5) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

### Licence fees

33. (1) There shall be payable on the acquisition of a mining right and, thereafter, monthly in advance, licence fees at the rate of –

- (a) in the case of every mining lease granted under the provisions of section 24, such amount as may be determined in the lease;
- (b) in the case of a mining lease registered under the provisions of section 25, such amount as may be prescribed;
- (c) in respect of every mining claim, other than a claim for precious stones, natural oil or natural gas –
  - (i) for the first year after the date of registration: R2 per month;
  - (ii) for the second year thereafter: R4 per month;
  - (iii) for the third year thereafter: R6 per month;
  - (iv) for the fourth year thereafter: R8 per month;
  - (v) for the fifth and subsequent years: R10 per month;
- (d) in respect of a mining claim for precious stones R100 per month;

Provided that in the case of a mining claim for alluvial deposits the fee shall be R50 per month;

- (e) in respect of a mining claim for natural oil or natural gas, such amount as may be prescribed:

Provided that where the Commissioner is satisfied that any licence fee payable under this section will probably be refundable under the provisions of subsection (2) he may permit the holder of the mining right to defer payment of the licence fee for such period, not being in excess of nine months, as he may determine.

(2) Any fee paid under the provisions of subsection (1) shall be refunded to the holder of the mining right by the Commissioner if such holder applies for such refund and proves to the satisfaction of the Commissioner that he has during any six months period in respect of which the refund is claimed carried out work on the mining area in the amount prescribed in section 34:

Provided that where a claim holder holds a block or blocks of contiguous or neighbouring mining claims, if operations which are being carried on on any claim in that block or in those blocks are in the opinion of the Commissioner capable of extension to any other claims in that block or in those blocks then the licence holder at his option may treat the claim on which work is being done together with any one or more claims to which in the opinion of the Commissioner operations may be extended as a single claim for the purposes of this section.

(3) The Minister shall waive the payment of any licence fee payable under the provisions of this section –

- (a) where he is of the opinion that the mineral to which the mining right relates cannot, in all the circumstances of the case, be worked at a profit; or
- (b) where he is satisfied that the work required in order for a refund to be claimed under the provisions of subsection (2) has not been carried out by reason of the influx or scarcity of water, serious accident, damage to mine equipment or by any other reasonable cause of whatsoever nature.

(4) Where the holder of a mining right carries out work in a mining area in excess of the amount prescribed in section 34 during any period in respect of which licence fees are payable under the provisions of subsection (1) such work may be deemed to be work entitling the holder of the mining right to be refunded in accordance with the provisions of subsection (2) in respect of any other such period in such circumstances and subject to such conditions as may be prescribed.

**Development work as an entitlement to licence fee refund**

34. (1) For the purposes of section 33 “work” includes –

- (a) development work as defined in subsection (3);
- (b) the production of minerals;
- (c) capital expenditure;
- (d) such other work in connection with mining as may be prescribed.

(2) The amount of work required to obtain a refund of fees under the provisions of section 33 (2) shall be in the case –

- (a) of development work: 60 feet or such amount or value as may be prescribed;
- (b) of the production of minerals; such quantity or value as may be prescribed;
- (c) of capital expenditure: R500;
- (d) where other work has been prescribed under subsection (1) (d): such amount as may be prescribed.

(3) For the purposes of this section development work –

- (a) shall consist of shafts, drives, adits, tunnels, winzes, rises and boreholes made or constructed for the purposes of developing the mineral contained within the area to which the mining right relates;
- (b) shall include for a period of two years commencing on the date of acquisition of the mining right trenching or excavation of a minimum depth of 3 feet which has been performed for the tracing of a reef or the proving of a deposit:

**B. 298**

Provided that for the purposes of computing the footage of development work for the purposes of subsection (2) (a) such trenching or excavation shall be reckoned on the basis of three cubic yards of trenching or excavation being the equivalent of one foot of such work;

- (c) except as provided for in subsection (5) shall be new work and not the restoration or cleaning out of existing works.

(4) No work shall be development work for the purposes of this section unless it is of the minimum dimensions prescribed in the First Schedule and the manner in which the footage of development work shall be computed for the purposes of subsection (2) (a) shall be as prescribed in that Schedule :

Provided that the Minister may, by notice in the *Gazette* vary, amend or modify any or all of the provisions of the First Schedule.

(5) Notwithstanding the provisions of subsection (3) (c), the Commissioner may, where he is satisfied that work in connection with cleaning out, dewatering or restoring old workings on a mine has been undertaken for the purpose of re-opening such workings and that an expenditure of not less than R500 has been thereby incurred make refund of fees in accordance with the provisions of section 33 (2).

(6) Capital expenditure –

- (a) for the purposes of subsection (2) (c) shall not include the purchase price paid or other consideration given in respect of the acquisition or transfer of a mining right;
- (b) on plant shall not be taken into account in computing the amount of expenditure for the purposes of subsection (5).

(7) If any dispute arises as to whether any expenditure is capital expenditure for the purposes of this section, the Commissioner shall refer the matter to the Minister, whose decision in the matter shall be final and without appeal.

**Transfer and hypothecation of mining rights**

35. (1) No State Grant of a mining lease or of any interest therein may be sub-let, transferred or hypothecated without the consent of the Minister.

(2) Subject to the provisions of subsection (1) the sub-letting, transfer or hypothecation of a mining right or of any interest therein shall be effected by written agreement registered under the provisions of Part XI:

Provided that no such agreement shall be registered where the transferee is disqualified from obtaining a mining right under the provisions of this Part.

(3) On effecting registration of an agreement under the provisions of subsection (2) the Registrar shall, in the event of the transfer to or vesting of the

right in a person other than the previous holder issue to the transferee a certificate of registration and shall cancel the last issued certificate of registration, if any.

### **Renewal of mining rights**

36. (1) If at the expiration of the term originally fixed in a mining lease or any renewal thereof the lessee shall be carrying on work in a normal and business-like manner –

- (a) in the case of a State Grant of a mining lease where the lessee has given the Commissioner six months' notice in that behalf, then the lessee shall be entitled to obtain a renewal of the lease for a term not exceeding twenty-one years upon the terms and conditions which are then generally applicable to new leases:

Provided that nothing in this paragraph shall derogate from the power of the Minister, on the application of the lease holder, to novate any State Grant of a mining lease by regrant under the provisions of section 24;

- (b) in the case of a mining lease registered under the provisions of section 25 and with the consent of the lessor, then the lessee shall be entitled to the extension or renewal of the lease for such period, not exceeding twenty-one years, as the parties thereto may agree:

Provided that such mining lease may be renewed for such period in excess of twenty-one years as the Minister may allow where, in the opinion of the Minister, special circumstances justifying such renewal exist.

(2) A mining right acquired under the provisions of section 26 may be renewed for a further period under the provisions of section 44.

### **Priorities of titles**

37. (1) Priority of acquisition of title to any mining area, if such title has been duly maintained, shall in every case determine the rights as between two or more persons claiming title to the same mining area or portion thereof, and in the event of the rights of a subsequent pegger conflicting with those of a prior pegger, then, to the extent of such conflict, the rights of such subsequent pegger shall be subordinated to the rights of such prior pegger, and all registration certificates or grants shall be issued subject to the provisions of this section.

(2) After the expiration of a period of –

- (a) two years after the date of an original registration certificate or grant;
- (b) six months after the transfer of a mining right in respect of which a registration certificate has been issued under the provisions of section 35 (3) to a *bona fide* purchaser for value;

## **B.300**

it shall not be competent for any person to allege that the original pegging, grant or registration of such mining area or mining right was invalid or illegal, or that the provisions of this Act were not properly carried out prior to the issue of such registration certificate or grant or prior to such transfer, as the case may be.

(3) For the purposes of this section "acquisition of title" means the due performance of the first physical act required to be done in order to acquire any mining right.

### **Subterranean limits**

38. The subterranean limits of any mining area shall be vertical planes passing through the sides by which the area is bounded.

### **Excesses in demarcation of a mining area**

39. (1) If at any time the Commissioner has reason to believe that the extent of a mining area exceeds the area for a mining area of the relevant type prescribed under this Act as read with the terms and conditions of any relevant mining lease (hereinafter referred to in this section as the "specified area") he may cause the boundaries of such area to be surveyed.

(2) If the extent of such mining area is found on survey to exceed the specified area, the holder thereof shall be liable to pay the Commissioner the cost of such survey in addition to any amount that the holder may have to pay in consequence of any action which he may be required to take under the provisions of subsections (3) and (4) of this section.

(3) If at any time after the registration of a mining right it is found that the extent of the mining area exceeds the specified area, the Commissioner shall notify the holder of the mining right accordingly, and such holder shall, within thirty days after a date fixed by the Commissioner in such notification, unless he abandons such mining area under the provisions of Part V –

- (a) in the case of a mining lease, alter the demarcated boundaries of the mining area to conform with those of the specified area, and;
- (b) in the case of a mining claim registered under the provisions of section 26 obtain a cancellation of the registration certificate relating to such mining area and the issue of a fresh registration certificate of any portion thereof, the extent of which does not exceed the specified area.

(4) Upon the issue of a fresh registration certificate under the provisions of subsection 3 (b) the mining right to which such certificate relates shall be deemed for all purposes to have been acquired on the same day and to be held upon the same terms and conditions as the original mining right.



## **B.301**

(5) Failure to comply with the provisions of subsection (3) shall render the whole of the mining area concerned liable to forfeiture under the provisions of section 48.

### **Returns and reports**

40. (1) The holder of a mining right shall furnish the Commissioner with such returns and reports of his mining operations on or in the mining area to which his right relates and in such manner as may be prescribed.

(2) Any person who knowingly furnishes any return or report in accordance with regulations made under subsection (1) as read with section 115 which is false in any material particular or who fails to re-submit any such return or report after notice by the Commissioner that such return or report is defective in any material particular shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

## **PART IV**

### **SPECIAL PROVISION RELATING TO CLAIMS**

#### **Claim licences**

41. (1) Subject to the provisions of this Act a person pegging a claim under the provisions of section 15 shall, on application to the Commissioner within the time prescribed in section 15 (3), be entitled to the issue to him of a claim licence.

(2) An application for a claim licence under the provisions of subsection (1) shall be accompanied by a sketch plan to the satisfaction of the Commissioner showing the area pegged, the beacons and the points of reference.

(3) The Commissioner may refuse to issue a claim licence if –

- (a) the application therefor does not comply with the provisions of this Act or the licence may not lawfully be granted under the provisions of this Act;
- (b) the applicant is not entitled to obtain a mining right in respect of the claim;
- (c) the claim has not been pegged in accordance with the provisions of this Act.

(4) A person to whom a claim licence is issued under the provisions of subsection (1) shall be entitled –

- (a) to exclusive prospecting rights over the claim concerned;

## **B.302**

(b) to make application for a mining right under the provisions of Part II to the claim concerned, which application shall be preferent to any other application in respect of the area so pegged.

(5) The rights conferred in subsection (4) shall lapse –

(a) if application is not made for a mining right within twelve months of the issue of the claim licence;

(b) if the application for the mining right is unsuccessful.

(6) Prior to the issue of a claim licence the Commissioner may inspect the claim for the purpose of ascertaining whether the provisions of this Act have been complied with.

### **Demarcation of claims**

42. (1) Before application is made for a mining right in respect of any claim the pegs placed under the provisions of section 15 shall be replaced by stone or concrete beacons at least 2 feet high and 3 feet in diameter at the base, and in the centre of such beacon there shall be securely fixed in an upright position a peg of not less than 2 inches in diameter, and projecting not less than three feet above the ground level.

(2) At every such stone beacon, there shall be dug two trenches not less than three feet long, six inches wide, and one foot deep, to indicate the direction of the two adjacent beacons.

(3) Every corner peg fixed under the provisions of subsection (1) shall bear a notice board or notice of the nature prescribed in section 16 (4) containing in the order shown the following particulars –

(a) the letter of the original peg for which the beacon has been substituted;

(b) the name, if any of the reef and of the principal mineral, or if alluvial claims, the word “alluvial”;

(c) the name of the registered holder;

(d) the number of the certificate of registration;

(e) the date of the certificate of registration.

(4) In the event of the amalgamation of claims under the provisions of section 100 only the external beacons need be maintained or erected in the manner prescribed in this section.

### **Diagrams**

43. Before the expiration of the first four years after the date of the first pegging of a claim or at such earlier date as the Commissioner may require, the

holder of the mining right shall furnish the Registrar with a diagram of his claim-holding, unless the Commissioner is satisfied that the cost of the diagram would be an unnecessary burden on the claimholder, and that no useful purpose would be served by furnishing it and so informs the holder in writing.

#### Extension of life of claims

44. (1) If the Minister is at any time satisfied –

- (a) that the size of any ore reserves proved on any claim is such that, having regard to the mining and reduction methods appropriate to the ore body and the marketing prospects of the minerals to be derived therefrom, it is unreasonable to expect the holder of such claim to mine out those reserves within the remaining period of the life thereof;
- (b) that the inability to mine out such reserves has not been brought about by any failure of the holder to carry on prospecting or mining operations on the said claim on a reasonable scale and in a reasonable manner:

Provided that no such failure shall be deemed to have arisen in the case of any period of stoppage caused by the influx of water, serious accident, damage to mine equipment or any other reasonable cause of any nature whatsoever; and

- (c) that the holder's title to the claim has not expired and is not liable to cancellation under any of the provisions of section 48;

he may order that the title to the said claim shall not expire on the date prescribed in section 47 (1) (b) but shall expire after the passage of forty-two years from the date on which the said claim was pegged.

(2) The Commissioner shall endorse any order made under the preceding subsection upon the claim licence relating thereto.

(3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to the title of any other claim which is licensed by the same holder, the title to which has not expired and is not liable to cancellation under the provisions of section 48 and which forms part of the same block of contiguous claims licensed by the holder as does the claim mentioned in subsection (1) and which in the opinion of the Minister is reasonably required by the holder for the operation in extension of operation on the claim mentioned in subsection (1).

(4) Any holder aggrieved by the refusal of the Minister to extend the life of a claim under the provisions of this section may appeal to the High Court by way of notice of motion to the Minister, and the High Court may direct the Minister to extend the life of the claim concerned or may dismiss the appeal as it thinks just.

## **B.304**

### **Mining sites**

45. (1) An applicant for the registration of a mining claim under the provisions of section 26 may in like manner make application for the registration of claims ancillary thereto under the provisions of this section, which claims shall be termed "mining sites":

Provided that such ancillary claim may be of any size but shall not exceed in area one acre for every four claims to which it is ancillary.

(2) A claim registered under the provisions of section 26 as read with the provisions of this section shall confer upon the holder the rights described in section 23 other than the right to mine.

(3) The certificate of registration of a claim to which the provisions of this section apply shall bear endorsed upon it the words "Mining Site".

(4) Every mining site shall be inalienably attached to the claims to which it is ancillary, and every transfer, lease, hypothecation, or charge affecting such claims shall act as a transfer, lease, or hypothecation of or charge to such claim; and no separate sale, lease, hypothecation or charge purporting to affect any such claim apart from the claims to which it is attached shall be valid:

Provided that nothing in this subsection shall prevent the abandonment of such claim whether for the purpose of effecting the registration of another similar claim or for any other cause.

(5) A mining site shall lapse when the claims to which it is ancillary, lapse:

Provided that if certain claims lapse, and others do not, the Commissioner may give such directions in the matter as he thinks fit.

(6) Subject to the provisions of this section a claim registered under the provisions of this section shall be deemed for all purposes to be a mining claim:

Provided that the provisions of sections 33 and 34 shall not apply to such claim.

(7) The Commissioner may refuse to register a claim under the provisions of this section if, in the opinion of the Commissioner, it will interfere with any mining operations.

(8) A mining site may be re-registered by the holder thereof as a mining claim to which the provisions of this section are not applicable.

### **Cancellation of portion of title**

46. (1) The holder of a block of mining claims shall, after giving notice thereof to the Commissioner, have the right at any time to the cancellation of his title to any portion of such block and to the issue of a new certificate of registration of the remainder:

Provided that he proceeds in all respects as to the beaconing and registration of such remaining claims as if they were newly pegged claims, and that he lodges his old certificate of registration with the Registrar, and that he removes all pegs and beacons relating to the old claims.

(2) The Registrar shall issue a new certificate of registration for the retained claims, with a fresh official number, and make appropriate entries in his books with regard to the abandoned claims.

## **PART V**

### **TERMINATION OF MINING RIGHT**

#### **Lapse of mining right**

47. (1) Subject to the provisions of sections 36 and 44 a mining right shall lapse –

- (a) in the case of a mining lease, on the expiry of the lease;
- (b) in the case of a mining claim registered under the provisions of section 26, on the twenty-first anniversary of the first registration of the claim;
- (c) if the right is abandoned under the provisions of section 49;
- (d) if the right is cancelled under the provisions of section 48.

(2) On the lapse of a mining right the Registrar shall make appropriate entries in all relevant books and registers kept under this Act.

#### **Cancellation of mining rights**

48. (1) If the Minister is satisfied that the holder of a mining right –

- (a) is not carrying on in a satisfactory manner prospecting or mining operations in the area of his right and has not been prevented from carrying on such operations by the influx or scarcity of water, serious accident, damage to mine equipment or by any other reasonable cause of whatsoever nature;  
or
- (b) is occupying the area of his right for purposes other than mining; or
- (c) has contravened any provisions of this Act relating to the rendering of any returns; or
- (d) is liable to the forfeiture of his mining area under the provisions of section 39 (5); or

**B.306**

- (e) is three months or more in arrears with the payment of any rental owing under the provisions of section 60 ;

he may issue an order directing the holder of the right to remedy his default within a period fixed by the Minister, being a period not less than three months from the date of issue of the notice.

(2) Any holder who considers a notice issued in terms of subsection (1) to be unreasonable may, within the period fixed under subsection (1), apply to the High Court by way of notice of motion addressed to the Minister, for an order directing the Minister to withdraw or vary his notice and the High Court may make such order in the matter as it thinks fit.

(3) Where an order has been issued in terms of subsection (1) and the holder remains in default after the expiration of the period fixed therein without having made application to the High Court as provided in subsection (2), or where the holder, having made such an application, fails to comply with the terms of the Court's order, the Minister shall declare the mining right to be cancelled.

(4) Whenever the licence fees due under the provisions of section 33 or rentals due under the provisions of section 59 are three months or more in arrear, the Commissioner shall give notice to the holder of the mining right and also to the holder of any bond registered under the provisions of Part XI informing them that unless such licence fees, rental and all other payment due in respect thereof are paid before the expiration of three months from the date of notice the title to such claim will be cancelled and if at the expiration of the said three months such fees and payments have not been paid, the said right shall be deemed to be cancelled.

(5) If at any time after the registration or grant of a mining right it shall appear to the Minister that such right was registered or granted otherwise than in accordance with the provisions of this Act or that the person on whose application the right was registered or granted was not entitled by virtue of the provisions of this Act to such right, the Minister shall give notice to such persons that unless within thirty days the Minister is satisfied by such evidence as seems to him necessary that such registration or grant was in accordance with the provisions of the Act or that such persons were entitled as aforesaid (as the case may be) the mining right will be cancelled and unless within such period the Minister is so satisfied that right shall as from the expiry of the period of thirty days be cancelled:

Provided that the holder of the right may appeal to the High Court against such cancellation within a period of fourteen days from the date thereof and the High Court may in the event of such appeal make such order in the matter as thinks fit.

(6) Where a third party holds a leasehold, hypothec or other interest in or in respect of any mining right which is cancelled under the provisions of this section such party may, within a period of four weeks of the cancellation, make

application to the Minister for the registration of the right in favour of himself or his nominee (being a person other than the previous holder of the right or a person responsible for the default occasioning cancellation) and, for the purpose of effecting any such transfer and of safeguarding the interests of interested parties pending the decision of the Minister the right shall be deemed to remain in existence.

(7) The provisions of sections 27 and 28 shall apply *mutatis mutandis* to any application under the provisions of subsection (6) and, in addition, the Minister may, in granting permission to transfer, impose such conditions as he may think equitable in the circumstances of the case.

#### **Abandonment of mining right**

49. (1) Any person wishing to abandon a mining right or a portion thereof shall give notice thereof to the Commissioner at least three months prior to such abandonment.

(2) The Commissioner if he is satisfied –

- (a) that the abandonment will not prejudice the interests of any person holding any interest in the mining right or mining area; and
- (b) the purpose of the abandonment is not to enable the holder unlawfully to evade his obligations under this Act or any other law;

shall direct the Registrar to register such abandonment and, upon such registration and the issue of a certificate of abandonment to the person abandoning the right as aforesaid, the mining right or such portion thereof shall be deemed to be abandoned and, if he is not so satisfied, the mining right or such portion thereof shall not be so deemed;

Provided that –

- (i) the abandonment of a mining right or a portion thereof under the provisions of this section shall not affect any liability incurred by the holder of the right before such abandonment shall have taken effect;
- (ii) in the case of a mining lease granted under the provisions of section 24 no abandonment shall be registered until such fees as may be prescribed have first been paid.

#### **Duties on lapse of mining right**

50. (1) Any person whose mining right lapses shall, forthwith upon such lapse fill up, fence, or secure to the satisfaction of the Commissioner all shafts, pits, holes and excavations, in such manner as to prevent persons or stock inadvertently entering them, but shall not remove beacons, pegs or boundary posts thereon.

## **B.308**

(2) If any person fails to comply with the provisions of subsection (1) the Commissioner may himself fill up, fence, or secure shafts, pits, holes and excavations and, in such event, the Commissioner may recover the expenses of such filling up, fencing or securing from the defaulter and the event of any legal proceedings, a certificate by the Commissioner as to the amount owing shall be *prima facie* proof of such amount.

(3) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to the penalties prescribed in section 116.

### **Removal of buildings etc.**

51. (1) Any person whose mining right lapses may within a period of six months of the effective date of such lapse remove from the mining area to which such right relates any buildings, structures or machinery which he or his predecessors in title may have erected thereon;

Provided that if any other person acquires a mining right to the mining area upon which the buildings structures or machinery are situated, the holder of such new mining right shall not be liable for any damage done to any such building, structures or machinery in the due and proper exercise of his rights as such holder.

(2) Notwithstanding the provisions of subsection (1) no person shall in the exercise of his powers under that subsection damage any dam, well or bore-hole or remove or damage any reservoir:

Provided that all machinery and appliances in connection with such dam or reservoir which can be readily removed without in any way injuring, weakening, or impairing such dam or reservoir, may be removed in accordance with the provisions of that subsection.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and liable on conviction, to the penalties prescribed in section 116.

### **Treatment of tailings etc. after lapse of mining right**

52. (1) Where any mining right lapses the former holder of the right may, not less than thirty days prior to such lapse, apply to the Commissioner for leave to enter the land comprised in the right and to treat or remove any tailings, ore or stone left thereon by him.

(2) The Commissioner may grant such leave and may fix a time within which such treatment or removal is to be completed.

(3) If such leave is not applied for as aforesaid or such treatment or removal is not completed within the time fixed, any tailings, or any stone remaining on the land shall become the absolute property of the State.



## PART VI

### ROYALTIES

#### Royalties

53. (1) Subject to the provisions of this Part all minerals obtained in the course of prospecting or mining operations shall be liable to royalties –

- (a) payable to the State where the State is the owner of the mineral rights –
  - (i) in the case of natural oils or natural gas, at such rate as may be prescribed;
  - (ii) in the case of any mineral other than a mineral specified in subparagraph (i), at the rate prescribed in the Second Schedule;
- (b) payable to the holder of the mineral right or his nominee where the State is not the owner of the mineral rights, at such rate as may be agreed upon between the owner of the mineral rights and the holder of the mining or prospecting right, as the case may be:

Provided that in addition to such royalties there shall be paid in the case of precious stones a royalty to the State at one half the rate prescribed in the Second Schedule.

(2) The rate agreed upon under the provisions of subsection (1) (b) shall not exceed such amount as may, from time to time, be prescribed and in so far as any agreement provides for the payment of royalties in excess of such rate, the agreement shall, to the extent of such excess, be unenforceable whether it was entered into before or after the date when the rate was prescribed as aforesaid.

(3) Where any person has acquired a prospecting or a mining right under the provisions of section 18 as read, as the case may be, with Part III, the holder of the prospecting or mining right shall pay to the owner of the mineral rights such sums, by way of royalty, as the Minister may determine as being adequate in the circumstances of the case:

Provided that any person aggrieved by the decision of the Minister under the provisions of this paragraph may appeal within four weeks of receiving notification thereof to the High Court for its determination as to whether the amount so determined is adequate and if not, what that amount should be, and, in exercising its powers under this proviso the High Court may make such order in the matter as it may think fit.

(4) The Minister may, by notice in the *Gazette*, vary, amend or modify any or all of the provisions of the Second Schedule including the manner in which royalties may be computed whether in relation to market value of any mineral, the profitability of any mining operations or otherwise:

## B. 310

Provided that where the effect of any variation, amendment or modification is to increase the rate of royalty payable by any holder of a mining right the Minister shall give notice in the Gazette of his intention to exercise his powers under this subsection at least one month prior to the exercise thereof.

(5) Nothing in this section shall render unenforceable any agreement for the payment of royalties (being royalties which accrue to the State) which was entered into prior to the date of the coming into operation of this Act and stipulating for the payment of royalties at a rate, or calculated in a manner, other than that prescribed in the Second Schedule, and such royalties shall, in such event, be payable in lieu of the payment of royalties at the rate so prescribed.

(6) For the purposes of this section and section 55 royalties shall include all sums, by whatever name called, payable by way of consideration for the right to mine any mineral.

### **Additional Diamond royalties**

54. (1) In addition to such royalties as may be payable in terms of section 53 the State shall be entitled to one-quarter of the annual realised profits from the working of any diamond pipe, and such one-quarter shall be paid within six months of the termination of the financial year of the holder of the mining right.

(2) For the purposes of subsection (1) the realised profit shall be the excess of revenue from the sale of diamonds over expenditure, including capital expenditure, incurred in working the pipe and in the production and realisation of diamonds. If there is a loss in any one year, it shall be carried forward as an addition to expenditure in the following year.

(3) For the purposes of subsection (2) "expenditure" shall include such expenses as may be prescribed.

### **Remission of royalties**

55. (1) Samples of minerals required for purposes of assay, analysis or other examination may be exempted from liability to royalties at the direction of the Commissioner by permit under his hand.

(2) The Minister may remit royalties payable to the State under sections 53 and 54 in such manner and on such conditions as may be prescribed.

(3) The Minister may remit wholly or in part the royalty payable on any specified mineral or specified deposit of minerals for such period as he may determine whenever he deems it expedient to do so in the interest of the production of such mineral or as an inducement to the commencement or continuation of mining operations:

Provided that where the State does not hold the mineral rights such remission shall not be made save with the consent of the holder of the mineral rights.

**Returns etc.**

56. (1) The holder of a mining right shall notify the Commissioner of his intention to win any mineral from his mining area and of the approximate date of commencement of such winning.

(2) The holder of a mining right shall, as from the date of the commencement of the winning of any mineral from his mining area render monthly to the Commissioner, not later than the first day of the second month following the one to which the return relates, a return of the amount of ore or other material treated or disposed of and the value of the output of the minerals therefrom. Every such return shall be supported by such statutory declaration, certificates and documents as may from time to time be prescribed, and any royalty which may be due on such output shall be accounted for and paid to the Commissioner at the time of rendering such return.

(3) If at the time of rendering such return it is for any reason impracticable to calculate the total value of the output from a mining area the Commissioner may on the application of the holder of the mining right fix a provisional value for such output and royalty shall be payable on such provisional value. When the total value of the output has been ascertained, the holder shall be entitled to be repaid any sums paid by him in excess of the royalty payable on such total value, or shall pay any sum which may be required to complete the royalty payable on such total value.

(4) If at the time of rendering any such return the holder of the mining right makes application to the Commissioner for permission to defer payment of any royalty which may be due on such output and on subsequent outputs, the Commissioner shall refer such application to the Minister, and the Minister may in his discretion prescribe that during such period as he may specify the royalty shall be paid when each such output is realised or on or before such other date as it may determine.

(5) Every holder of a mining right shall, if so required by the Commissioner produce such evidence as the Commissioner may require as to the total sums realised by him for any output.

(6) The Commissioner or any official duly authorised by him shall, at all reasonable times, have access for the purpose of inspection to all books and records, reports and other documents, relating to any mining area as may be necessary for the purpose of ascertaining or verifying any return rendered under this section.

(7) Any person failing to give notice under subsection (1) or render returns under subsection (2) shall be guilty of an offence and liable, on conviction to the penalties prescribed in section 116.

## **B.312**

### **Prohibition of disposal of minerals**

57. (1) If a holder of a mining right fails to pay any royalty due in respect of his mining area on or before the prescribed date, the Commissioner may issue an order prohibiting the disposal of any minerals from such area or from any other mining area which is being worked by such holder, whether or not such holder has failed to pay any royalty due in respect of such other area, until all outstanding royalty has been paid or until an arrangement has been made which is acceptable to the Commissioner for the payment of any such royalty.

(2) If the Commissioner has reason to believe that minerals have been produced from any mining area and he has not received in respect thereof the return mentioned in section 56 he may issue an order prohibiting the disposal of any minerals from such mining area until such return has been rendered and any royalty due in respect of such production has been paid or until an arrangement has been made which is acceptable to the Commissioner for the payment of such royalty.

(3) Any holder of a mining right who fails to observe such an order and any person knowing of such order who contrary thereto receives any minerals from the mining area concerned, shall be guilty of an offence and, liable, on conviction to the penalties prescribed in section 116.

## **PART VII**

### **FISCAL**

#### **Duties**

58. (1) Every instrument described in the Third Schedule shall, save as to the exemptions in this Act specified, be severally subject to the duties prescribed in respect of such instrument, whether the instrument be executed in Botswana or whether it is executed outside Botswana.

(2) Where the amount of duty exceeds R20 the Registrar shall be deemed to have been authorised under the provisions of section 6 (1) (d) of the Stamp Duties and Fees Proclamation (Chapter 91) to issue a special receipt in lieu of requiring stamps to be affixed to the instrument.

(3) Where an instrument is chargeable with *ad valorem* duty in respect of –

- (a) any money in any foreign or Commonwealth currency; or
- (b) any stock or marketable security;

the duty shall be calculated on the value on the date of the instrument of the money in rand according to the current exchange or of the stock or security according to the average price thereof.

(4) Any instrument chargeable with duty under the provisions of this section shall not be chargeable with further duty under the provisions of the Stamp Duties and Fees Proclamation (Chapter 91).

(5) The Minister may, with the approval of the Minister for the time being responsible for Finance, by notice in the *Gazette* exempt any instrument or class of instrument either from the whole or part of any duty chargeable under the provisions of this section.

(6) The Minister may, by notice in the *Gazette* vary, amend or modify any or all of the provisions of the Third Schedule.

#### **Registration rental**

59. (1) There shall be paid to the State at the office of the Commissioner by every holder of a special prospecting licence issued under the provisions of section 9 an annual registration rental of 50 cents per square mile of the grant, with a minimum rental of R50.

(2) The rental payable under the provisions of subsection (1) shall be payable on the issue of a special prospecting licence and, thereafter, annually on the anniversary thereof until the expiry or termination thereof.

(3) Where the special prospecting licence is granted over land within a tribal territory half of any moneys received by the State under the provisions of this section shall be appropriated as a grant in aid of the District Council within the area of which the land is situated.

(4) Registration rental shall be paid in respect of a mining right in such amount, to such persons (whether the State or otherwise) and subject to such conditions as may be prescribed.

(5) Where registration rental is payable under the provisions of this section no mining or prospecting right shall be deemed to accrue until the first annual payment in respect thereof has been paid.

### **PART VIII**

#### **RIGHTS OF SURFACE OWNER OR OCCUPIER**

##### **Rental to owner or occupier of land**

60. (1) Where a mining right has been acquired by any person to land (other than unalienated State land) which is not owned or occupied –

- (a) by the holder of the mineral rights to that land unless such mining right has been acquired under the provisions of section 18 as read with section 7 (1) (d) and Part III;

### **B.314**

- (b) by the holder of the mining right to that land other than under a mining or prospecting right;

the holder of the mining right shall pay to the owner or occupier of the land annually in advance, such rental as may be agreed between them or, in the absence of such agreement, as may be determined by the Minister:

Provided that in the case of land in a tribal territory such rental shall be payable to the District Council within the area of which the land is situated and shall be in such amount as may be prescribed.

(2) The Minister may, on application by any interested party, apportion any rental payable under the provisions of subsection (1) between the owner and any occupier in proportion to their respective interests in the land included within the mining area or make such other order in the matter as may appear to him to be just.

(3) In assessing any rental payable under the provisions of this section the Minister shall determine the matter in relation to current leasehold values in the area in which the mining right is situated for land of a similar general nature to the land concerned but which is known to lack any exploitable deposit of minerals.

(4) The Minister may, on the application of any interested party from time to time vary any determination made by him under the provisions of this section:

Provided that the Minister may decline to vary any determination if the application thereto is made within five years of any previous determination of the same nature and shall so decline if the effect of a successful application would be to vary a High Court determination under the provisions of subsection (5) within five years of the date thereof.

(5) There shall be an appeal by any interested party from the Minister to the High Court against any determination by the Minister under the provisions of this section other than a determination under the proviso to subsection (4):

Provided that any such appeal shall be lodged within a period of four weeks after the appellant became aware of the determination appealed against.

(6) The High Court may, on appeal, vary or amend any determination of the Minister made under the provisions of this section:

Provided that the High Court shall not exercise its powers under this subsection unless it is satisfied that, in the circumstances of the case, the determination of the Minister was substantially inequitable.

### **Rights to compensation**

61. (1) The holder of a prospecting or mining right shall, on demand being made by the owner or occupier of the land upon or under which prospecting or

mining operations are or have been carried on, pay him fair and reasonable compensation for any disturbance of the rights of such owner or occupier, and for any damage done to the surface of the land by such operations and shall, on demand being made by the owner of any crops, trees, buildings or works damaged by the holder of the right or by any servant or agent of such holder or of his predecessors in title, pay compensation for such damage :

Provided that –

- (a) except insofar as the parties concerned may otherwise agree no compensation may be claimed under the provisions of this section in respect of damage done to the surface of land situated within a mining area until the lapse of such right;
- (b) payment of rental under the provisions of section 60 shall be deemed to be adequate compensation for deprivation of the use of the land to which the rental relates;
- (c) in assessing compensation claimable under the provisions of this section account shall be taken of any improvements effected by the holder of the mining or prospecting right, or by his predecessors in title the benefit of which enures or will enure to the owner or occupier;
- (d) the basis upon which compensation shall be claimable for damage done to the surface of any land shall be the extent to which the market value of the land (which for such purposes, shall be deemed to be saleable) upon which the damage has occurred has been reduced by reason of such damage;
- (e) no compensation shall be claimable by the holder of a State Grant of land or his successors in title in respect of any mining or prospecting operation under a mining or prospecting right existing at the date of such Grant;
- (f) no compensation shall be claimable under the provisions of this section by an owner or occupier who is the holder of the mineral rights and from whom the holder of the prospecting or mining right has received permission to prospect or mine, as the case may be.
- (g) compensation shall be claimable for the clearing or preparation of land for agricultural or other purposes on the basis of the extent by which the market value of the land (which for such purposes, shall be deemed to be saleable) is enhanced by such clearing or preparation;

(2) If the holder of the prospecting or mining right fails to pay compensation when demanded under the provisions of subsection (1) or if the owner or occupier is dissatisfied with the compensation offered, the dispute shall be determined in accordance with the provisions of Part X.

(3) Unless any amount owing under the provisions of this section is paid within fourteen days of the decision of the Commissioner under the provisions of subsection (2) as read with Part X or, in the event of an appeal to the High Court, within fourteen days of the decision of the High Court thereon the Minister may,

## **B. 316**

by order served on the holder thereof and without prejudice to any other remedy which the person to whom compensation is owed may have, suspend the prospecting or mining right until such compensation is paid.

(4) A demand under the provisions of subsection (1) shall be made within a period of four years from the date when the right to claim compensation under this section first accrued, failing which such right shall be unenforceable.

### **Surface rights of landholder**

62. The owner or occupier of any land within a mining area shall retain the right to graze stock upon or to cultivate the surface of such land in so far as such grazing or cultivation does not interfere with the proper working or utilisation of such area for mining or prospecting purposes but shall not erect any building or structure thereon without the consent of the holder of the mining right or, if such consent is unreasonably withheld, the consent of the Commissioner.

## **PART IX**

### **SURFACE PROTECTION**

#### **Protection of cracks, subsidences, shafts and workings**

63. (1) When large cracks or subsidences have taken place, or are likely to take place in consequence of mining operations, it shall be the duty of the holder of the mining right under which such operations have taken place, to fence in securely or enclose to the satisfaction of the Commissioner the places where such cracks or subsidences are, or are likely to occur, and to keep the same securely fenced or enclosed.

(2) The mouths of all shafts, as well as all other open surface workings, and all other excavations dangerous to the safety of persons or livestock shall be securely fenced in or enclosed to the satisfaction of the Commissioner and shall be kept so fenced in by the registered holder for the time being of the mining area on which such shafts, workings or excavations may be.

(3) Any person failing to comply with the provisions of subsection (1) or (2) shall be guilty of an offence and, on conviction, shall be liable to the penalties prescribed in section 116.

#### **Mining under roads, buildings etc.**

64. (1) Reefs, or other mineral deposits shall be left intact below roads, railways, landing fields, reservoirs, cemeteries, building stands, machine sites, rivers, lakes, water rights, villages and gardens, townships and other surface objects requiring protection, and for such distances outside the boundaries of



such premises or areas as the Commissioner may determine.

(2) The portions of reefs or mineral deposits required to be left intact under the provisions of this section or section 65 shall be termed "safety pillars".

(3) Cutting into or through any safety pillar other than on the written authority of the Commissioner and in accordance with the terms and conditions of such authority shall be an offence, and any person responsible therefore shall, on conviction, be liable to the penalties prescribed in section 116.

#### **Underground Boundary Pillars**

65. (1) On the inside of the boundary lines of every mine safety pillar shall be left standing the width of which, in coal mines, shall not be less than fifty feet and, in metalliferous mines, not less than twenty feet.

(2) On the joint application of the owners of adjoining mines the Commissioner may give permission to either party to weaken, cut through or work from the respective pillars between such mines.

(3) In the absence of such joint application the Commissioner may give written permission for the partial working, weakening or cutting through of such pillars.

#### **Alluvial working**

66. (1) If in the opinion of the Commissioner the working of alluvial deposits on any land might result in permanent damage to the surface or natural resources of such land he may prohibit, by order served on the holder of the mining right, the working of such minerals or permit such working subject to such conditions and restrictions as he may determine.

(2) Any person failing to comply with the provisions of an order served under the provisions of subsection (1) shall be guilty of an offence and shall be liable, to the penalties prescribed in section 116.

### **PART X**

#### **DISPUTES**

##### **Commissioner may decide disputes**

67. (1) The Commissioner may inquire into and decide all disputes, which are referred to him by any party thereto, between persons engaged in prospecting or mining operations or between any such person and any person not so engaged in connection with –

**B.318**

- (a) the boundaries of any area pegged, beacons or registered under the provisions of this Act;
- (b) any act done or omitted in the course of or connected with or ancillary to prospecting or mining operations whether such act was done or omitted by the person carrying on such operations or by any other person;
- (c) subject to the provisions of the Water Act, 1967, any claim by any person to be entitled to erect, cut, construct or use any pump, line of pipes, flume, race or drain for mining purposes as against any other person claiming the same;
- (d) the assessment of any compensation assessable by him under the provisions of this Act;
- (e) the abandonment of any mining right under the provisions of section 49;
- (f) the priority of acquisition of title under the provisions of section 37;
- (g) such other matters as may be prescribed.

(2) Save where the Commissioner is elsewhere in the Act required to determine the matter he may, in his discretion, refuse to decide any dispute referred to him under the provisions of this section.

(3) For the purposes of section 6 of the Arbitration Proclamation, 1959, proceedings before the Commissioner under this section shall be deemed to be legal proceedings.

(4) The Commissioner shall have power to make any order necessary to give effect to any decision made by him in the matter or any dispute inquired into by him under the provisions of this section and may order the payment by any party to such dispute of compensation or costs, or both compensation and costs, to any other such party.

**Procedure before mining commissioner**

68. The initiation and conduct of any proceedings before the Commissioner under the provisions of section 67 of this Act shall be subject to the following provisions –

- (a) the person initiating such proceedings shall lodge with the Commissioner a memorandum in duplicate stating shortly the subject matter of the proceedings and the relief claimed;
- (b) upon receipt of such memorandum the Commissioner shall give notice to the other party to the dispute of the nature of the proceedings and of the time and place at which the same will be heard and determined;
- (c) at the time and place appointed the parties to the dispute shall attend, either in person or by his legal representative before the Commissioner, and may call or give evidence on oath, which oath the Commissioner is

hereby empowered to administer, in support of their cases ;

- (d) the Commissioner may adjourn any hearing to any time or place, and may, either at the original hearing or at any adjournment thereof, proceed in the absence of any party to the dispute ;
- (e) the Commissioner may, at any time during a hearing seize or cause to be seized any minerals and may detain them pending his decision ;
- (f) the law for the time being regulating proceedings before and the powers of a subordinate court of the first class in the exercise of its civil jurisdiction shall, so far as practicable and subject to any modifications, additions or alterations which may be prescribed apply to any proceedings before the Commissioner and to the enforcement of his decisions in like manner as if such decisions were the decisions of such a court, but this paragraph shall not restrict the Commissioner from inquiring into and deciding any dispute by reason of the fact that the subject matter exceeds in value the jurisdiction of a subordinate court of the first class.

### **Records**

69. (1) The Commissioner shall keep a record of all disputes heard and determined by him under the provisions of section 67 of this Act and shall take notes of all evidence given before him.

(2) Any person interested in any dispute heard by the Commissioner or in any decision or order of the Commissioner given or made therein shall be entitled to obtain a copy of the record and notices concerning such dispute upon payment of such fee as may from time to time be prescribed.

### **Enforcement by courts**

70. (1) The Commissioner may send a copy, certified under his hand, of any order made by him under the provisions of this Part to any court within the local limits of whose jurisdiction the subject matter of the order is situated, and such court shall have power to enforce such order in the same manner in which it could enforce an order made by such court.

(2) The fees payable in any court in respect of the enforcement of any order under the provisions of subsection (1) of this section shall be those which would be payable upon the enforcement of an order made by such court.

### **Appeals to High Court**

71. Any person aggrieved by any decision or order of the Commissioner given or made under the provisions of this Part may appeal therefrom to the High Court within thirty days after the date of such decision or order.

## **B. 320**

### **Saving for other proceedings**

72. Nothing in this Part contained shall be deemed to prevent any person from instituting in any court of law any proceedings in respect of any of the matters mentioned in section 67 (1):

Provided that when a dispute has been referred to the Commissioner and the Commissioner has not refused to decide such dispute, any court before which proceedings are brought in respect of the subject matter of the dispute, if satisfied that there is no sufficient reason why the dispute should not be determined by the Commissioner may make an order stating such proceedings.

### **Survey for purposes of hearing of disputes**

73. If, before or during the hearing of any dispute, it shall appear to the Commissioner that it will be necessary for a survey to be made of any land in respect of which such dispute has arisen, he may order either party to such dispute to cause such survey and a plan thereof to be made, and the costs of the making of such survey and plan shall be in the discretion of the Commissioner.

### **Working of mining area under interdict**

74. Whenever any interdict has been granted by the Commissioner under the provisions of this Act, the Commissioner may, upon the application of the holder of a mining area adjacent to the mining area which is the subject of such interdict, and upon being satisfied by such holder that the mining right of such holder will sustain damage or be materially depreciated in value by reason of the non-working of the mining area which is the subject of such interdict permit the working of such area upon such terms and conditions as he shall think fit and to such extent as, in his opinion is necessary to prevent such damage or depreciation, and the Commissioner may make such order as to the cost of such working as he may think just.

## **PART XI**

### **REGISTRATION**

#### **Register**

75. The Registrar shall keep a register for the registration of prospecting and mining rights, documents and other matters required or permitted to be registered under the provisions of this Act.

#### **Documents to be registered**

76. The following documents are required to be registered under this Part of this Act within the times and to be in the manner hereinafter stated, in the regis-

ter kept under section 75 of this Act –

- (a) every document purporting to grant, convey, or transfer a prospecting or mining right or any interest in a prospecting or mining right, or to be a lease or an agreement for a lease of a prospecting or mining right or any interest in a prospecting or mining right for a longer term than one year, or to create a charge upon a prospecting or mining right or upon any interest in a prospecting or mining right whether by way of mortgage or otherwise;
- (b) every certificate issued under this Act;
- (c) every notice in writing given under this Act by the Commissioner or Minister.

**Production of documents necessary to deduce title**

77. (1) Upon application to register any document required to be registered as aforesaid –

- (a) the Registrar may, before registering such document, order that any other document necessary for deducing the title of the applicant for registration to the prospecting or mining right or any interest therein which is the subject of the application (hereinafter referred to as “document necessary to deduce title”) whether or not such document necessary to deduce title is required to be registered as aforesaid, shall be produced or its non-production explained to the satisfaction of the Registrar;
- (b) if any document necessary to deduce title is a document required to be registered pursuant to the provisions of this Part and has not been registered as so required the Registrar shall order that the same be registered under this Part at the expense of the applicant for registration unless such document necessary to deduce title is void in consequence of non-registration as hereinafter provided, in which case the Registrar shall not register the document tendered for registration unless the Commissioner or the Court has authorised or extended the time for its registration under section 79;
- (c) if any person has in his possession or custody any document or evidence of title affecting the prospecting or mining right or interest therein, which is the subject of the application, to the production of which the applicant or any trustee for him is entitled the Registrar may require such person to show cause within the time specified by the Registrar why he should not produce such document or evidence of title; and, unless cause is shown to the satisfaction of the Registrar within the time specified, he may order such document or evidence of title to be produced at the expense of the applicant at such time and place, and in such manner, as the Registrar thinks fit, and on the production of any document pursuant to such order as aforesaid the provisions of paragraph (b) of this subsection shall apply thereto.

## **B.322**

(2) Any person aggrieved by an order of the Registrar under this section may appeal to the High Court which may annul or confirm the order of the Registrar with or without modification.

(3) If any person disobeys any order of the Registrar made in pursuance of paragraph (c) of subsection (1) of this section the Registrar may certify such disobedience to the High Court and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the High Court in the same manner in all respects as if the order made by the Registrar were the order of the High Court.

### **Period within which documents are to be registered**

78. (1) All documents, except letters of administration required to be registered under this Part, shall be lodged for registration in the office of the Registrar within the following periods respectively -

- (a) in the case of a document executed at the place where it is registered within thirty days from its date of execution;
- (b) in the case of a document executed at a place in Botswana other than the place at which it is registered within ninety days from its date of execution;
- (c) in the case of a document executed out of Botswana within one year from its date of execution.

(2) Letters of administration in respect of a deceased estate affecting a prospecting or mining right or any interest therein shall be registered within twelve months of the grant thereof or the sealing thereof under the provisions of the Administration of Estates Proclamation (Chapter 83) as the case may be.

### **Documents to be void for want of registration**

79. (1) Any document required to be registered under this Act shall become null and void unless such document is registered within the appropriate period specified in this Act:

Provided that the Commissioner may extend the period within which such document shall be registered or authorise its registration after the expiration of such period on such terms as to costs and otherwise as he shall think fit, if the Commissioner is satisfied that the failure to register was unavoidable or that there are any special circumstances which afford ground for giving relief from the results of such failure and that no injustice will be caused by allowing such registration:

Provided further that the letters of administration required to be registered and not registered within the period specified in the immediately preceding section shall be null and void so far only they relate to a prospecting or mining right or any interest therein.

(2) There shall be an appeal to the High Court against any determination of the Commissioner under subsection (1) which may make such order in the matter as it deems fit.

**Priority and date of registration**

80. (1) The date of registration of a document registered under this Act shall be the date upon which the document is lodged for registration in the office of the Registrar or at such other place as may be prescribed.

(2) Subject to the provisions of section 37 all documents required to be registered under the provisions of this Part shall have priority according to the date of registration thereof and not according to the date of such documents or of the execution thereof.

(3) A person claiming any interest under any such document registered as aforesaid shall be entitled to priority corresponding to the priority of such document and shall not, except in cases of fraud, lose such priority in consequence of his having been affected with actual or constructive notice of any prior unregistered document which is required to be registered under this Part.

**Documents giving mining rights may be registered though not required to be registered**

81. At the option and upon the application of any person interested thereunder, any document affecting a prospecting or mining right or any interest therein which is not required to be registered under this Part may nevertheless be registered in the register in such manner as the Registrar may direct.

**Correction of error or omission in register**

82. (1) Where any person alleges that any error or omission has been made in the register or that any entry or omission therein has been made or procured by fraud or mistake the Registrar shall, if he shall consider such allegation satisfactorily proved, correct such error, omission or entry as aforesaid.

(2) Any person aggrieved by the refusal of the Registrar to correct an error, omission or entry or by any correction made in the register under the immediately preceding subsection may appeal against the refusal or correction to the High Court and the High Court may dismiss the appeal if it considers that there is not sufficient ground for interfering with the refusal or correction or may order the register to be rectified in such manner as may be directed in such order.

(3) The Registrar shall obey any order of the High Court made under the immediately preceding subsection on being served with the order or an official copy thereof.

### **B.324**

#### **Description of mining or prospecting area etc.**

83. Every document presented for registration under this Part shall contain a description, and, if the Registrar so requires, shall have annexed thereto a sketch plan or diagram of the mining or prospecting area or of the situation of the minerals to which it refers, certified by the Commissioner as being adequate for the purposes of this Act.

#### **Identity of person presenting document for registration**

84. The Registrar may, in any case in which he thinks fit so to do, require that the document to be registered shall be presented for registration either by the person executing or claiming an interest under such document, or the representative or agent of such person and the Registrar may require to be satisfied as to the identity of the person by whom it is brought for registration or in the case of a representative or agent as to his authority which authority may be proved by power of attorney, or other evidence appearing to the Registrar to be sufficient.

#### **Stamp duties and fees to be paid before registration or issue of certificates**

85. Before registering a document or issuing a certificate under this Act the Registrar shall be satisfied that all stamp or other duties and fees or other payments due to the State hereon have been duly paid.

#### **Copies**

86. If the document to be registered is not in Botswana a copy of such document duly authenticated under the provisions of the Authentication of Documents Law, 1964 may be registered in lieu of such document without further authentication.

#### **Copies to be furnished**

87. Every document presented for registration shall be accompanied by a copy thereof and of any map or plan annexed thereto for deposit in the Records Office.

#### **Details of registration**

88. Registration of a document shall consist of the filing of the original or a copy thereof certified by the Registrar to be a true copy and of the entry in the register of the following items –

- (a) the names of the parties to the document ;
- (b) the date of the document ;
- (c) the date of registration of the document ;



- (d) the nature of the document.

#### **Order of filing and numbering**

89. The Registrar shall file the originals or certified copies of the documents to be registered in the order in which they come into his hands and shall number every copy so filed consecutively writing the day, month and year when it is registered.

#### **Memorandum of registration**

90. There shall be endorsed on every document registered a memorandum signed by the Registrar containing sufficient reference to the number and position of the document in the register and every memorandum so signed shall, in the absence of evidence to the contrary, be proof of due registration of the document.

#### **Power of registrar if consideration understated**

91. (1) If it shall appear to the Registrar that the consideration upon which duty is payable under the provisions of this Part is understated in any document presented for registration it shall be competent for the Registrar to refuse to register such document until he shall have been satisfied as to the proper amount upon which duty is payable and that the proper duty has been paid.

(2) For the purpose of ascertaining the proper amount upon which duty is payable and that the proper duty has been paid, the Registrar may make such inquiry or cause valuation to be made or require such proof of any matter as he shall think proper and may make such order as to the costs of such proceedings as shall be just.

(3) The Registrar may for the purpose of this section take statutory declarations.

(4) Any person aggrieved by the refusal of the Registrar to register a document under the provisions of this section may appeal therefrom, including any order as to costs to the High Court within thirty days after the date of such refusal or order.

#### **Documents in foreign language to be accompanied by translation**

92. If any document presented for registration under this Part is not in the English language it shall be accompanied by a translation duly certified as being a correct translation by some person whose competency has been approved by the Registrar.

## **B.326**

### **Defect in document not cured by registration**

93. Registration shall not cure any defect in any document registered or confer upon it any effect or validity other than that provided by this Act.

### **Admissibility of certified copy or extract of registered document**

94. (1) Every certified copy or extract of any registered document purporting to be signed by the Registrar shall be admissible in evidence in any proceedings, whether civil or criminal.

(2) In the event of the loss or destruction of any document registered under this Act, a copy certified under the hand of the Registrar to be a true copy, shall be admissible in evidence of its contents in any court subject to all just exceptions as to its validity or upon other grounds.

### **Search of register**

95. Subject to such rules as may be prescribed any person may search in and examine the register kept under this Part and certified copies of any entry therein or of any Certificate, permit or licence issued by the Commissioner or Registrar may be obtained if required upon payment of the fee prescribed in the Third Schedule.

### **Registration of original grant of prospecting or mining right**

96. Notwithstanding the provisions of section 79 no State Grant of a prospecting licence granted under the provisions of section 8, prospecting permit issued under the provisions of section 9, or State Grant of a mining lease granted under the provisions of section 24 shall be void by reason of any failure to register such document within the time prescribed in section 78:

Provided that the original, or duplicate original, of every such document shall be forwarded by the Commissioner to the Registrar for registration within fourteen days of the grant or issue thereof and the Registrar shall, on receipt thereof, register the document in the manner prescribed in this Part.

## **PART XII**

### **MINING RECORDS OFFICE**

#### **Establishment of Mining Records Office**

97. (1) There is hereby established a Mining Records Office the management and direction of which shall vest in the Minister.

(2) The custody of the records in the Mining Records Office shall vest in the Director.

**Certain records to be lodged in the Mining Records Office**

98. (1) The following documents shall be deposited in the Mining Records Office –

- (a) a copy of every document required to be registered under the provisions of Part XI of this Act;
- (b) any report or return made to the Commissioner under the provisions of this Act;
- (c) any document surrendered to the Commissioner under the provisions of section 101;
- (d) any record kept under the provisions of this Act;
- (e) such other documents in the custody of the Government of Botswana as the President may direct shall be kept in the Mining Records Office.

(2) It shall be the duty of the Registrar to supply the Commissioner with such information as he may require for the maintenance of adequate records relating to mining and prospecting operations in Botswana including a copy of every notice served on him or given by him under the provisions of this Act.

(3) In place of retaining the original or other copy of any document required to be deposited in the Records Office under the provisions of this Part the Commissioner may cause to be retained a microfilm or other adequate copy thereof.

**Access to Mining Records Office**

99. Subject to the provisions of sections 20 (2) and 106 (3) the public shall have access to the records in the Records Office in such manner and subject to the payment of such fees as may be prescribed.

**PART XIII**

**ADDITIONAL AND SUPPLEMENTARY**

**Amalgamation of prospecting and mining rights**

100. (1) Areas held under a special prospecting licence or which are subject to mining rights may be amalgamated subject to such conditions and restrictions as may be prescribed:

Provided that no more than –

- (a) ten mining claims in respect of precious metals or precious stones;

## **B. 328**

- (b) thirty mining claims other than in respect of precious metals or precious stones;

may be so amalgamated.

(2) Any such amalgamation shall be registered under the provisions of Part XI in such manner as the Commissioner may direct.

(3) Where the Commissioner is satisfied that the holder of a mining or prospecting right whose mining or prospecting areas have been amalgamated under the provisions of this section is not carrying out his obligations in terms of the prescribed conditions and restrictions he may by notice served on the holder of the right and on the Registrar direct that the aforesaid areas shall cease to be so amalgamated.

### **Surrender of documents**

101. (1) On the lapse of any mining or prospecting right the holder of the right shall surrender to the Commissioner the original, or a true copy thereof, for deposit in the Records Office of –

- (a) any record or report which the holder is obliged, under this Act, to make or maintain;
- (b) any plan or geological map of the area to which the mining or prospecting right relates or of any working thereon;
- (e) such other documents relating to such right as the Commissioner may direct shall be surrendered or which may be prescribed for the purposes of this section and which have not previously been lodged with the Commissioner in accordance with the provisions of this Act.

(2) Any person who fails to surrender any document which he is required to surrender under the provisions of subsection (1) within fourteen days of being called upon so to do by the Commissioner shall be guilty of an offence and shall be liable on conviction, to the penalties prescribed in section 116.

### **Retention of cores and samples**

102. (1) No core or geochemical sample obtained in the course of prospecting or mining operations shall be destroyed or otherwise disposed of other than for purposes of assay, identification or geochemical analysis without the permission in writing of the Commissioner who may grant such permission subject to such conditions as he sees fit to impose.

(2) Where any core or geochemical sample is retained for the purpose of complying with subsection (1) there shall be maintained a record in such degree of particularity as the Commissioner may specify sufficient for the identification of the core or sample, and the location and geological horizon of its origin.

(3) Any person who destroys or disposes of a core or sample in contravention of the provisions of subsection (1) or who fails to maintain a record in the manner prescribed in subsection (2) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

(4) For the purposes of this section "geochemical sample" shall be deemed to include every sample taken under the provisions of section 106 (2):

Provided that no such sample may be destroyed or disposed of for purposes of assay, identification or geochemical analysis except on the written authority of the Commissioner.

#### **Discovery of economic minerals to be notified**

103. (1) The holder of a prospecting or mining right shall notify the Commissioner of the discovery of any mineral of economic value within a period of thirty days after such discovery.

(2) Any person failing to so notify the Commissioner shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section 116.

#### **Export of radioactive minerals**

104. (1) No person shall export from Botswana any radioactive mineral except under and in accordance with a permit granted by the Minister in that behalf.

(2) The grant of a permit under subsection (1) shall be in the absolute discretion of the Minister.

(3) Every permit issued under subsection (1) shall be in such form and for such period and be subject to the payment of such fee as the Minister may determine and shall contain such terms and conditions as he may think fit to impose.

(4) Any person who exports any radioactive mineral in contravention of the provisions of subsection (1) or who fails to comply with the terms or conditions of a permit issued under the provisions of that subsection shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section 116.

#### **Trading on mining areas**

105. (1) No person shall, on any mining area, carry on any business for which a licence is required under the provisions of the Trading Act, 1966, without the permission in writing of the Minister:

Provided that such permission shall not entitle any person to carry on any business save under and in accordance with the provisions of the Trading Act, 1966.

(2) Subject to the provisions of section 62 no person shall within any claim or mining area erect any building or other structure for the purpose of car-

## **B.330**

rying on any business without the consent in writing of the holder of the claim or mining right concerned.

(3) Any person who carries on business in contravention of the provisions of subsection (1) or who erects any building or other structure in contravention of the provisions of subsection (2) shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in section 116.

### **Shaft sinking**

106. (1) Before any person sinks, deepens or constructs for mining or prospecting purposes any shaft, borehole, adit or tunnel he shall give the Director notice in writing of his intention to do so; and shall keep in a form approved by the Director a record of the progress of the work, which shall include measurements of the strata passed through and of the levels at which water is struck and subsequently rests.

(2) Any such person shall further keep adequately labelled samples of the superficial deposits and strata passed through taken at every change in formation or, in uniform formations, at every ten feet.

(3) Records and samples supplied under the provisions of subsections (1) and (2) shall, so long as the person supplying the same or his successors in title retain a mining or prospecting right over the area to which the records relate be treated as confidential, and any person who, during the period aforesaid and without the consent of the person supplying such record or samples or of his successor in title communicates the contents of such record, or of any part thereof, or the nature of such sample to any person otherwise than in the course of his duty or on the instructions of a court of law shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section 116:

Provided that where, in the opinion of the Minister, the consent of the person supplying such records or samples or of his successor in title is unreasonably withheld the Minister may authorise the communication of the contents of such record or of any part thereof, or of the nature of such sample, to such person or persons as he may specify.

(4) Any person failing to give notice or keep a record under the provisions of subsection (1) or keep a sample in accordance with the provisions of subsection (2) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

### **Poisonous substances**

107. (1) Every miner shall securely fence in any water containing cyanide of potassium or other poisonous or injurious solutions of chemicals used in the treatment of minerals, tailings or concentrates, in connection with his mining area and shall put up in suitable places notice boards warning persons against using

such water and shall not permit such water to escape beyond the limits so fenced without having previously rendered it harmless.

(2) Every miner who is mining or treating arsenical ores shall –

- (a) ensure in respect of all arsenical ores roasted by him that arsenious oxide emanating from such roasting is collected in adequate flues or by other means in a properly designed and constructed roasting plant ;
- (b) take adequate measures to prevent any arsenical compound exposed in or derived from his mining operations from becoming a danger to man or beast.

(3) Every miner shall take all reasonable precautions, and shall comply with such directions as may be given by the Commissioner for such purpose, to ensure that no poisonous or injurious substance is allowed to escape beyond the boundaries of his mining area.

(4) Any person who contravenes the provisions of this section or who fails to comply with any direction of the Commissioner under subsection (3) shall be guilty of an offence and liable, on conviction, to the penalties prescribed in section 116.

**Inspections etc.**

108. (1) The Commissioner, Director or other official duly authorised thereto by either of them may at all times enter upon any mining area and the buildings, structures and workings thereon for the purpose of –

- (a) generally inspecting such mining area and the buildings, structures and workings thereon and examining the mining operations or treatment of minerals performed thereon ;
- (b) ascertaining whether the provisions of this Act or of any other law relating to mining, explosives or employment are being carried out ;
- (c) ascertaining whether any nuisance exists upon such mining area ;
- (d) examining into and making enquiry respecting the condition and ventilation of any building or workings, and all matters relating to the health and safety of the persons employed ;
- (e) inspecting and examining the state of the external parts of the machinery used upon or in the mining area or in the working thereof, and the state of all plant works and ways ;
- (f) examining all books, accounts, vouchers and documents relating thereto and any minerals obtained from the mining area ;
- (g) inspecting the storage of explosives.

(2) If in any respect such officer finds any mining area or any building, structure or working thereon, or any matter thing or practice in or connected with

## **B.332**

mining or prospecting operations, to be dangerous or defective so as in his opinion to threaten or tend to threaten the bodily injury of any person, he shall give notice in writing to the holder of the right or his agent in charge of the mining area or operations and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

(3) On receipt of such notice, the holder of the mining right or his agent shall comply therewith, or if he intends to object thereto, as provided by the following subsection, he shall cease to use the said mining area, building, structure or working, machine, plant, matter, thing or practice, as to which such notice shall have been given, and shall forthwith withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner:

Provided that if, in the opinion of such officer, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the workmen.

(4) If the holder of the mining right or his agent objects to remedy the matter complained of in any notice under subsection (2), he may, immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such officer as he may appoint in that behalf.

(5) Any person who fails, neglects or refuses to provide all reasonable facilities and assistance to the Commissioner, Director or other authorized official when acting under this section, or to comply with any notice as aforesaid of the Commissioner, Director or duly authorized official, or who commits a breach of any duty imposed on him thereunder, shall be guilty of an offence and liable to the penalties prescribed in section 116; and the court may, in addition to imposing such penalties order him to provide such facilities and assistance or to comply with such direction or to perform such duty, as the case may be, within such period as the court may specify, and if within the period so specified he fails to comply with such order the Commissioner may recover from him by way of penalty the sum of R20 for each day or portion of a day he fails to comply with such order after the expiry of such period.

## **Geological survey**

109. (1) The Director, the Commissioner and any person duly authorised in writing by either of them, may for the purpose of carrying out a geological survey of Botswana or any part thereof –



- (a) enter at all reasonable hours upon any land with such persons, animals, vehicles, appliances, instruments and materials as are necessary for such survey;
- (b) break up the surface of any part of such land for the purpose of ascertaining the rocks, strata or minerals within or under the same;
- (c) take and carry away samples and specimens of the rocks, strata or minerals found therein;
- (d) fix any post, stone, mark or object to be used in the survey of any such land;
- (e) dig up any ground for the purposes of fixing such post, stone, mark or object; and
- (f) enter into or upon any land through which it may be necessary to pass for the purposes of such survey:

Provided that –

- (i) it shall not be lawful to fix any object post, stone or mark within any walled or fenced garden or orchard without the consent of the owner or occupier thereof;
- (ii) reasonable notice of the intention to exercise any of the powers conferred by this section shall be given to the owner or the occupier of such land unless such land is unoccupied State land:

Provided that in any tribal territory notice to the Chief thereof shall be deemed to be adequate notice for the purposes of this paragraph; and

- (iii) as little damage and inconvenience as possible shall be caused by the exercise of any of the powers conferred by this section and such owner or occupier shall be entitled to compensation for any damage sustained in the execution of the powers conferred in this section.

(2) Any person who in any way whatsoever prevents, obstructs or impedes the exercise of any of the powers conferred by subsection (1) or who displaces, defaces or destroys any stone, post, mark or object set up and placed for the purposes of any geological survey shall be guilty of an offence and liable to the penalties prescribed in section 116.

### **Register of employees**

110. (1) Registers shall be kept at every mining area or block of mining areas worked as a single mine or under the control of one manager, and shall at all reasonable times be open to the inspection of the Commissioner or other duly authorised official.

- (2) In such registers there shall be duly entered –

#### **B.334**

- (a) the name, age and nationality of every person employed on such mining area;
- (b) the dates of commencement and termination of the service of such employees and the nature of such services;
- (c) in the case of the death of any employee, the place, the date of death and, as far as it can be ascertained, the cause of death.

(3) If any holder of a mining right or his agent or manager fails to keep a register in accordance with the provisions of subsection (1) he shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

#### **Employment of persons who are not citizens of Botswana**

111. (1) The President may by order in the *Gazette* prohibit the employment of persons who are not citizens of Botswana in unskilled occupations or any class thereof who are employed in mining operations or in any work in connection therewith, except as overseers or when the President is satisfied that their services are essential to the efficient conduct of such operations.

(2) The Minister may demand from the holder of any mining right a deposit sufficient to cover the cost of repatriation of any persons who are not citizens of Botswana employed by such holder.

(3) Any person who employs any person in contravention of the provisions of an order made under the provisions of subsection (2) or who fails to make a deposit within such reasonable time as the Minister may specify under subsection (2) shall be guilty of an offence and shall be liable, on conviction, to the penalties prescribed in section 116.

#### **Proceedings in the case of accidents**

112. (1) Whenever an accident shall occur in connection with mining or prospecting operations causing or resulting in loss of life or serious injury to any person the person in charge of the operation shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the District Commissioner of the district in which the accident occurred and to the Commissioner.

(2) In the event of any such accident the Commissioner or such officer as may be nominated by him thereto shall hold an inquiry into the cause thereof.

(3) The officer holding the inquiry shall, for the purposes of an inquiry under subsection (2), have the powers of a subordinate court to summon witnesses, and examine the parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing and neglecting to do so, or refusing to answer any ques-

tion put to him by or with the concurrence of the officer holding the inquiry, shall be guilty of an offence and liable to the penalties prescribed in section 116:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

(5) Any witness attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the High Court in a criminal trial, and payment shall be made in such manner as the Minister may direct.

(6) At the conclusion of any inquiry under the provisions of this section the officer holding the inquiry shall report thereon to the Minister stating what, in his opinion, were the causes of the accident, the person or persons responsible therefor and the steps which should be taken to prevent the recurrence of accidents of similar nature.

(7) An inquiry under this section may be held in conjunction with an inquest under the provisions of the Inquests Proclamation (Chapter 34) and, in such event, save that the Commissioner or other officer acting under the provisions of this section shall preside jointly with the person holding the inquest under the provisions of that Proclamation and shall make separate report at the conclusion thereof under the provisions of subsection (6), the proceedings shall be deemed to be an inquest.

#### **Government officers prohibited from acquiring rights**

113. (1) No person while in the service of the Government of Botswana shall directly or indirectly acquire any right or interest in any prospecting or mining right and any document or transaction purporting to confer any right or interest in any such officer shall be null and void:

Provided that a temporary employee may retain rights and interests acquired prior to accepting Government employment.

(2) No person in the office of the Director shall acquire or retain any share in a company carrying on prospecting or mining operations in Botswana:

Provided that the Minister may authorise a departure from the provisions of this subsection where, in his opinion, the operations of the company concerned in Botswana form a negligible part of the total operations of that company.

#### **Forms**

114. Any document or certificate required to be used for the purposes of this Act shall, unless the form thereof is prescribed, be in such form as the Commissioner, in consultation with the Attorney-General, may determine.

## **B.336**

### **Regulations**

115. (1) Subject to the provisions of this Act the Minister may make regulations in connection with the following matters or purposes –

- (a) prescribing anything which in terms of this Act is to or may be prescribed;
- (b) providing for the special registration of a mining right or mining area, the legal effect of such registration and the fees payable in connection therewith;
- (c) for making of returns of precious stones won and for the valuation of such stones;
- (d) the manner in which applications under this Act shall be made, and the information to be supplied by applicants;
- (e) the shape of the areas over which special prospecting licences and mining leases may be granted;
- (f) the size and shape of the areas over which mining leases may be granted;
- (g) the manner in which areas and boundaries shall be marked, beaconed and surveyed and the fees payable in respect of such survey;
- (h) working conditions on mining areas;
- (i) the construction and use of roads, tramways and railways;
- (j) the safe construction and erection of houses, pits, shafts, machinery and other works to be used for prospecting or mining purposes;
- (k) the fencing off or rendering secure of any shaft, tunnel, drive or other works constructed, erected or made for prospecting or mining purposes;
- (l) the grazing of cattle or other animals, the gathering of fuel and the cutting down and use of timber for the purposes of carrying on prospecting and mining operations;
- (m) the safety of persons employed in mines and the carrying on of prospecting or mining operations in a safe, proper and effectual manner;
- (n) the renewal, transfer, assignment and surrender of mining and prospecting rights;
- (o) the registration of mining leases, claims and special prospecting licences and instruments under which any right or interest thereunder is transferred or surrendered and the fees payable on such registration;
- (p) the returns to be rendered and the nature of the accounts, books and plans to be kept by mining lessees and the holders of claims and of special prospecting licences;
- (q) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties and the manner and time of payment thereof;

- (r) the disposal of sludge and tailings and declaring any waterways to be sludge channels;
  - (s) the disposal of any poisonous or noxious products resulting from mining operations;
  - (t) the procedure on an appeal to the Minister;
  - (u) the fees to be paid in respect of any matter or thing done under this Act;
  - (v) the amalgamation of mining or prospecting rights;
  - (w) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines;
  - (x) the defiling or wasting of water, wherever situated and wherever obtained;
  - (y) the restriction or prohibition of prospecting operations in any river, pan, lake or stream;
  - (z) the nature and adequacy of any sketch plan required for the purposes of this Act;
- and generally for the carrying into effect of the purposes of this Act.

(2) Regulations under this section which provide for a reduction in the rate of any royalty may be made with retrospective effect; and where any royalties have already been paid in respect of any period to which regulations so made relate, the Accountant-General on the warrant of the President, may refund to the respective persons who paid such royalties the difference between the royalties already paid and the royalties payable by them under the said regulations.

(3) Regulations under paragraph (q) of subsection (1) of this section may –

- (a) prohibit the export of any mineral unless or until the royalty payable thereon has been paid or secured;
- (b) specify the person or persons by whom royalty shall be payable and may specify whether two or more persons are jointly and severally liable to pay such royalty;
- (c) provide for the examination of mineral consignments and the issue of export permits in respect thereof;
- (d) provide for the remission or refund of royalty or any part thereof in any case or class of case and the manner in which and conditions on which such remission or refund may be made;
- (e) confer upon any public officer specified therein such powers of inspection and inquiry as may be reasonably necessary for the proper carrying out thereof.

(4) A regulation made under the provisions of this section may provide a penalty for the contravention thereof in an amount not exceeding R500 or imprison-

## **B.338**

ment for a period not exceeding six months or both such fine and such imprisonment.

### **Penalties**

116. (1) Any person who contravenes the provisions of Sections 6 (4), 10 (3), 22 (5), 27 (4), 56 (7), 57 (1), 103 (2), 107 (4) or 108 (5) shall be liable to a fine not exceeding R1,000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who contravenes the provisions of sections 7 (8), subsections (2) or (3) of section 20, 21 (5), 30 (2), 31 (3), 32 (7), 40 (2), 50 (3), 51 (3), 53 (5), 63 (3), 64 (3), 66 (2), 101 (2), 102 (3), 104 (4), 105 (3), subsections (3) and (4) of section 106, 109 (2), 110 (3), 111 (3), or 112 (4) shall be liable to a fine not exceeding R500 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

### **Savings**

117. Nothing in this Act shall affect the continuing validity of any Crown or State Grant made in terms of the Mines and Minerals Proclamation (Chapter 122) prior to the date of coming into operation of this Act or the continuing validity of any Mineral Concession registered under the provisions of section 4 of that Proclamation:

Provided that –

- (a) such Crown or State Grant or Concession shall be deemed for the purposes of this Act to be a State Grant of a Special Prospecting Licence issued under the provisions of section 8, in so far as it confers a prospecting right, and a State Grant of a mining lease issued under the provisions of section 24 in so far as it confers a mining right;
- (b) in the event of any conflict between the terms and conditions of any such Crown or State Grant or Concession (being terms and conditions which might lawfully be contained in such Crown or State Grant or Concession under the provisions of the mines and Minerals Proclamation (Chapter 122)), and the provisions of this Act the terms and conditions of such Crown or State Grant or Concession shall continue to be valid and enforceable notwithstanding the provisions of this Act and, where provision is made in such Crown or State Grant or Concession for its extension or renewal such terms and conditions may be incorporated in the Grant or Concession as extended or renewed by State Grant under this Act notwithstanding that such extension or renewal is, in other respects, subject to the provisions of this Act.

- (c) notwithstanding the provisions of paragraph (b) of this proviso any moneys payable in terms of such Crown or State grant to any tribe, tribal authority or District Council shall be paid to the Government at the office of the Commissioner;

**Repeals**

118. The Mines and Minerals Proclamation (Chapter 122) and every statutory instrument thereunder is repealed.

**FIRST SCHEDULE**

(section 34)

- (1) None of the following shall count as development work –
  - (a) any shaft, winze, rise, drive, adit or tunnel of less superficial area than 15 square feet;
  - (b) any shaft which has been sunk to a total vertical or incline depth of less than 20 feet from the surface;
  - (c) any borehole which has been sunk to a total vertical or incline depth of less than 50 feet from the surface;
  - (d) any borehole from which a core is unobtainable and boreholes used for blasting;

Provided that where intensive and systematic drilling of shallow boreholes has been carried out through overburden to prove the economic potentialities of mineral deposits, the Commissioner may, notwithstanding the provisions of subparagraphs (c) and (d) authorise such work to count as development work.

- (2) Subject to the above conditions –
  - (a) each foot of any shaft, winze or rise of 15 to 40 square feet superficial area shall count as one foot development work;
  - (b) each foot of any shaft, winze or rise of over 40 and up to 65 square feet superficial area shall count as two feet of development work;
  - (c) each foot of any shaft, winze or rise of over 65 square feet superficial area shall count as three feet of development work;
  - (d) each foot of any drive, adit or tunnel from surface of 48 square feet superficial area and over shall count as two feet of development work.

## **B.340**

### *Depth*

Each foot of any portion of a shaft, winze or rise, or any drift the floor of which is not more than 60 feet below the natural surface at the working point, shall count as one foot of development work; exceeding 60 feet and up to 100 feet, as one and a half feet; exceeding 100 feet and up to 200 feet, as two feet, exceeding 200 feet and up to 300 feet, as three feet; exceeding 300 feet and up to 400 feet as four feet; exceeding 400 feet and up to 500 feet, as five feet; and exceeding 500 feet, as six feet.

### *Distance from entrance*

Each foot of any portion of an adit or tunnel from surface which is 100 feet to 300 feet from a point in the centre of the roof at the entrance shall count as one and a half feet of development work, and each foot or any portion of 300 feet or more from such point shall count as two feet of development work.

### *General*

All dimensions shall be taken at right angles to the line of direction of the work, and in the clear between outside timbers if in position or allowing for them if they are to be put in later.

Depth in incline work shall be measured on the incline. The allowances for dimensions and depth or distance from entrance shall be cumulative, viz: each foot of any portion of a shaft of over 65 square feet superficial area, which is more than 100 feet but not more than 200 feet from surface, shall count as six feet of development work.

### *Allowance for Boreholes*

Each foot drilled below the natural surface for a distance of 300 feet shall count as one foot of development work; exceeding 300 feet and up to 600 feet, as two feet; exceeding 600 feet and up to 900 feet, as three feet; exceeding 900 feet and up to 1,200 feet, as four feet; exceeding 1,200 feet, as five feet.

### *Allowance for Trenching*

See subsection (3) of section 34.

### *Geochemical and Geophysical Work*

Every R4 spent on such work shall count as one foot of development work.



SECOND SCHEDULE

(section 53)

1. The royalties payable on –

- (a) any mineral or mineral products won, excluding coal, oil shale, natural oil or natural gas, precious metals and precious stones, shall be three per centum of the gross market value;
- (b) coal shall be 2½ cents per ton of 2,000lb ;
- (c) oil shale shall be 3 cents per ton of 2,000lb. ;
- (d) natural oil and natural gas shall be at the rate prescribed ;
- (e) precious stones shall be ten per centum of the gross market value :

Provided that –

- (i) if the total monthly gross market value does not exceed R2,000 no royalty shall be payable in respect of the mineral or mineral products won during that month ;
- (ii) if the total monthly gross market value of the mineral or mineral products won exceeds R2,000 but does not exceed R4,000, royalty shall be payable only on twice the amount by which the gross market value exceeds R2,000.

2. No royalty shall be payable in respect of precious metals.

3. The term “gross market value” shall for the purpose of this scale of royalties be defined as being the gross marketable value of the mineral or mineral products, less any costs incurred for transport of output prior to sale or disposal, for insurance and for selling agent’s normal commission and such other costs as the Minister may allow.

B.342

### THIRD SCHEDULE

(Section 58)

<i>Nature of duty</i>	<i>Amount</i>
Endorsement under section 7 (1) (a)	
(a) in the case of a special prospecting licence.....	R 50
(b) in the case of a prospecting permit .....	R 1
Issue of Special Prospecting Licence under section 8 .....	R100
Renewal of Special Prospecting Licence under section 8 (3).....	R 50
Issue of Prospecting Permit under section 9.....	R 2
(a) in the case of a mining lease .....	R 50
(b) in the case of a mining claim .....	R 5
On the grant of a mining lease under section 24 .....	R100
Registration of mining lease under section 25 .....	R100
Application under the provisions of section 27 .....	R 1
Issue of Registration Certificate under section 29 .....	R 0.50
Registration of name under section 31 .....	R 0.50
Registration of an agent or manager under section 32.....	R 0.50
Renewal of State Grant under section 36 (1) (a).....	R 50
Renewal of Mining Lease under section 36 (1) (b).....	R 50
Issue of claim licence under section 41 .....	R 5
Endorsement under section 44 (2) .....	R 5
Issue of Certificate of Registration under section 46 (2) .....	R 10
Issue of Certificate of Abandonment under section 69 .....	R 0.50
Issue of certified copy under section 95 .....	R 10
<i>On the Transfer of a Mining or Prospecting Right</i>	
Transfer of any mining or prospecting right or any interest therein	
where the consideration does not exceed R200 .....	R 2.00
If the consideration exceeds R200, for every R200 or part thereof	R 2.00

Provided that if it be proved to the satisfaction of the Registrar that the transfer is merely for the purpose of carrying out the reconstruction of any company holding the mining or prospecting right or interest therein or the amalgamation of two or more companies holding the mining or prospecting right or interest therein one-half only of the duty above mentioned shall be payable.

**B.343***Mortgage or Hypothec*

Mortgage or hypothecation of a mining right or interest therein.

Amount secured not exceeding R20 .....	20c
Exceeding R20 and not exceeding R40 .....	30c
Exceeding R40 and not exceeding R60 .....	50c
Exceeding R60 and not exceeding R100 .....	75c
Exceeding R100 and not exceeding R200 .....	R 1.00
Exceeding R200 and not exceeding R300 .....	R 1.50
Exceeding R300 and not exceeding R400 .....	R 2.00
Exceeding R400 and not exceeding R600 .....	R 2.50
Exceeding R600 and not exceeding R800 .....	R 3.00
Exceeding R800 and not exceeding R1,000 .....	R 4.00
Exceeding R1,000 and not exceeding R1,200 .....	R 5.00
Exceeding R1,200 and not exceeding R1,400 .....	R 6.00
Exceeding R1,400 and not exceeding R1,600 .....	R 7.00
Exceeding R1,600 and not exceeding R1,800 .....	R 8.00
Exceeding R1,900 and not exceeding R2,000 .....	R 9.00
And for every additional R200 or fraction of R200 .....	50c

*Transfer of mortgage or hypothec*

For every R200 and also for any fractional part of R200 of the amount transferred exclusive of interest not in arrear..... 10c

*Reconveyance, release, discharge, surrender or renunciation of any mortgage or hypothec or of the benefit thereof or of the money thereby secured*

For every R200 and also for any fractional part of R200 of the amount or value of the money at any time secured..... 10c

Should the mortgage of any interest in any mining right be for the purpose of securing any issue of debentures, duty shall only be payable on such amount of debentures as shall actually be issued from time to time in respect of such location.

*Lease of Agreement for Lease*

Lease or agreement for lease of any mining right or any interest in mining right at a rental per annum –

Not exceeding R40 .....	40c
Exceeding R40 but not exceeding R100 .....	R1.00
Exceeding R100, for every R100 or fractional part thereof .....	R1.00

In addition in respect of the consideration, if any, the same duty as on a transfer of a mining right for the same consideration.

**B.344**

*Matters not otherwise Specified*

In respect of the registration of any matter in the registry, not otherwise specified .....R1.00.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,  
Clerk of the National Assembly.

**THE ARMS AND AMMUNITION PROCLAMATION, 1959**

(No. 86 of 1959)

(Promulgated 8th January, 1960)

as amended by

**THE ARMS AND AMMUNITION (AMENDMENT) PROCLAMATION, 1960**

(No. 52 of 1960)

(Promulgated 7th October, 1960)

and

**THE ARMS AND AMMUNITION (AMENDMENT) LAW, 1961**

(No. 12 of 1961)

(Date of Effect 1st January, 1962)

and

**THE REVISED EDITION OF THE LAWS (AMENDMENT) LAW, 1962**

(No. 30 of 1962)

(Promulgated 18th September, 1962)

and

**THE ARMS AND AMMUNITION (AMENDMENT) LAW, 1963**

(No. 9 of 1963)

(Date of Effect 4th June, 1964)

and

**THE ARMS AND AMMUNITION (AMENDMENT) LAW, 1965**

(No. 13 of 1965)

(Promulgated 15th October, 1965)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1965**

(Legal Notice No. 28 of 1965)

and

**THE TRANSFER OF POWERS ORDER 1965 (No 4)**

(Legal Notice No. 55 of 1965)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

and

C.2

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966 (No. 3)  
(Legal Notice No. 94 of 1966)**

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint : 6th January, 1967.

BOTSWANA  
**THE ARMS AND AMMUNITION PROCLAMATION, 1959**  
ARRANGEMENT OF SECTIONS

**Introductory**

*Section*

1. Short Title and Commencement
2. Interpretation
3. Appointment of Licensing Officers

**PART I**

**Regulation of Purchase, Possession, Manufacture and Sale of Arms and  
Ammunition and Other Transactions**

4. Application of this Part
5. Penalty for Purchasing, etc., Arms or Ammunition without Arm Certificate
6. Grant, etc., of Arm Certificates
7. Fees in Respect of Arm Certificates
8. Exemptions from Holding Arm Certificate
9. Refusal of Arm Certificate Without Production of Arm
10. Manufacture of Arms and Ammunition
11. Production of Arm Certificate
12. Production of Arms and Ammunition
13. Unregistered Dealing in Arms
14. Registration of Arms Dealers
15. Certificate of Registration
16. Separate Places of Business
17. Restrictions on Sale or Transfer
- 17A. Arm Certificate to be Endorsed on Sale or Transfer of Ammunition <sup>1</sup>
18. Register of Transactions
19. Storage and Safe Custody
20. Powers of Court in Case of Offences by Registered Arms Dealers
21. Loss of Arms or Ammunition to be Reported
22. Appeals
23. Saving

**PART II**

**Miscellaneous Provisions as to Arms and Ammunition**

24. Special Types of Weapons and Ammunition
25. Importation and Exportation
- 25A. Constitution of Arms and Ammunition Quota Board <sup>2</sup>
26. Places of Importation

(1) As inserted by Law 12/1961

(2) As inserted by Law 9/1963

#### **C.4**

- 27. Arms and Ammunition in Transit by Railway
- 28. Restrictions on Possession of Arms and Ammunition by Young Persons
- 29. Carrying Arm while Drunk or Disorderly
- 30. Penalty for Use and Possession of Arms or Imitation Arms
- 30A. Forging Arm Certificate or Permit <sup>1</sup>
- 31. Appeals

#### **PART III General**

- 32. Restriction on Convicted Persons Possessing Arms or Ammunition, etc.
- 33. Service of Notices
- 34. Power to make Regulations and Issue Orders
- 35. Savings
- 36. Repeal
- 37. (Repealed) <sup>2</sup>

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(1) As inserted by Law 12/1961

(2) Repealed by Law 30/1962



**PROCLAMATION**

No. 86 of 1959  
(Promulgated 8th January, 1960)

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Arms and Ammunition Proclamation, 1959

52 of 1960  
12 of 1961  
30 of 1962  
9 of 1963  
13 of 1965

L.N.28 of 1965  
L.N.55 of 1965  
L.N.84 of 1966  
L.N.94 of 1966

**INTRODUCTORY****Short Title and Commencement.**

1. This Proclamation may be cited as the Arms and Ammunition Proclamation, 1959, and shall come into operation on the first day of July, 1960:

Provided that the President<sup>1</sup> may by notice in the *Gazette* make provision for exempting, for such period from the commencement of this Proclamation as may be specified in the notice, any person or class of persons from any of the provisions of this Proclamation or of any regulation made hereunder:

Provided further that any such order, if made after the commencement of this Proclamation shall, if expressed to take effect retrospectively from the commencement of this Proclamation take effect accordingly.

**Interpretation.**

2. In this Proclamation, unless the context otherwise requires —

“abattoir” means any building, premises or place used by butchers for killing domestic animals for the purposes of food;

“acquiring” means hiring, accepting as a gift and borrowing, and the expressions “acquire” and “acquisition” shall be construed accordingly;

“ammunition” means any cartridge or percussion cap designed for use in the discharge of an arm as hereinafter defined and includes gunpowder and grenades, bombs and other like missiles whether capable of use with such an

(1) As amended by L.N. 84/1966

## C.6

arm or not, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

“approved armourer” means a person who with the approval of the Minister<sup>1</sup> carries on the business of repairing, testing or proving arms;

“approved carrier or warehouseman” means a carrier or warehouseman approved by the Minister;<sup>1</sup>

“area” means a district or part of a district for which a licensing officer is appointed under section 3;

“arm” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes the barrel, bolt and chamber and any other essential component part of any such weapon as aforesaid;

“arm certificate” means an arm certificate granted under section 6;

“arms dealer” means a person who by way of trade or business sells, transfers, repairs, tests or proves arms or ammunition;

“arms of war” means artillery of all kinds, apparatus for the discharge of all kinds of projectiles, explosive or gas-diffusing, flame-throwers, bombs, grenades, machineguns and rifled small-bore breach-loading weapons, but does not include sporting rifles, or personal or other weapons or apparatus not intended for warlike purposes;

“Board” means the Arms and Ammunition Quota Board constituted under section 25A;<sup>2</sup>

“customs officer” has the same meaning as is ascribed to “officer” in the Botswana Customs Proclamation, 1956;<sup>3</sup>

“immigration officer” has the same meaning as in the Botswana Immigration Proclamation, 1956;<sup>3</sup>

“licensing officer” means a person appointed under section 3 to be a licensing officer for the purposes of this Proclamation;

“munitions of war” means ammunition for use with arms of war;

“police officer” means any member of the Botswana Police of the rank of Sergeant and upwards;<sup>3</sup>

“prescribed” means prescribed by regulation under section 34;

(1) As amended by L.N. 55/1965, 84/1966 and 94/1966

(2) As inserted by Law 9/1963

(3) As amended by L.N. 84/1966

“slaughtering instrument” means an arm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughter;

“transferring” includes letting on hire, giving, lending, and parting with possession, and the expressions “transfer”, “transferee” and “transferor”, shall be construed accordingly.

#### **Appointment of Licensing Officers.**

3. The Minister<sup>1</sup> shall appoint suitable persons to be licensing officers for the purposes of this Proclamation in and for such areas of Botswana<sup>2</sup> as he may prescribe and such appointments may be of named persons or may be *ex officio*.

### **PART I**

#### **REGULATION OF PURCHASE, POSSESSION, MANUFACTURE AND SALE OF ARMS AND AMMUNITION AND OTHER TRANSACTIONS**

##### **Application of this Part.**

4. (1) This Part applies to all arms as defined in section 2, except the following weapons and component parts thereof, namely —

any airgun, air-rifle or air-pistol not being of a type declared by the Minister<sup>1</sup> by notice in the *Gazette* to be specially dangerous.

(2) This Part applies to all ammunition as defined in section 2, except ammunition for an airgun, air-rifle or air-pistol.

##### **Penalty for Purchasing, etc., Arms or Ammunition without Arm Certificate.**

5. (1) Subject to the provisions of this Proclamation, no person shall own, purchase acquire or have in his possession any arm or ammunition unless he holds a valid arm certificate in respect of that arm or ammunition.

(2) If any person owns, purchases, acquires or has in his possession any arm or ammunition without holding a valid arm certificate in respect of that arm or ammunition or, in the case of ammunition, in quantities in excess of those authorised in the certificate, he shall, subject to the provisions of this Proclamation, be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding R400 or to both such imprisonment and fine.

##### **Grant, etc., of Arm Certificates.**

6. (1) An application for the grant of an arm certificate shall be made in the prescribed manner to the licensing officer for the area in which the applicant resides and the applicant shall state such particulars as may be prescribed.

(1) As amended by L.N. 55/1965, 84/1966 and 94/1966

(2) As amended by L.N. 84/1966

## C.8

(2) A licensing officer shall consider every such application in the prescribed manner and shall not grant an arm certificate unless —

- (a) he is satisfied that the applicant has a good reason for owning, purchasing, acquiring or having in his possession the arm or ammunition in respect of which the application is made and may possess that arm or ammunition without danger to the public safety or to the peace; and
- (b) where the application relates to an arm or ammunition which is not in Botswana<sup>1</sup> and in respect of which a maximum quantity for importation or an importation restriction has been prescribed he is authorised to issue an import permit therefor in terms of section 25(6)(c).

Provided that an arm certificate shall not be granted to a person whom the licensing officer has reason to believe to be prohibited under this Proclamation from possessing an arm or to be of intemperate habits or unsound mind or to be for any reason unfitted to be entrusted with such an arm.<sup>2</sup>

(3) An arm certificate granted under this section shall be in the prescribed form and shall specify the nature and number of the arm to which it relates, and, as respects ammunition, the quantities authorised to be purchased and to be held at any one time thereunder.

(4) An arm certificate shall, unless previously revoked or cancelled, continue in force until the thirty-first<sup>3</sup> day of December next following the date when it was granted or last renewed but shall be renewable for a further such period by the licensing officer for the area in which the holder resides, and so from time to time, and the foregoing provisions of this section shall apply to the renewal of an arm certificate as they apply to the grant of an arm certificate.

(5) An arm certificate may be revoked by the licensing officer for the area in which the holder resides if the licensing officer is satisfied that the holder is prohibited under this Proclamation from possessing an arm to which the arm certificate relates, or is of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with such an arm.

(6) In any case where a licensing officer revokes an arm certificate he shall by notice in writing require the holder to surrender the arm certificate, and if the holder fails without reasonable cause, proof whereof shall lie upon him, to do so within fourteen days from the date of the notice, he shall be guilty of an offence and be liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months:

Provided that, where an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed and shall in either case have effect as if for the reference to the date

(1) As amended by L.N. 84/1966

(2) As amended by Law 9/1963

(3) As amended by Proclamation 52/1960

of the notice there was substituted a reference to the date on which the appeal was abandoned or dismissed.

(7) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant of an arm certificate under this section or the renewal of an arm certificate, he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

#### **Fees in Respect of Arm Certificates.**

7. (1) Subject to the provisions of this section, there shall be payable on the grant or renewal of an arm certificate and on the replacement of an arm certificate which has been lost or destroyed, such fees as may be prescribed.

(2) No fee shall be payable on the grant to any officer of a rifle club affiliated to the Botswana<sup>1</sup> Police Rifle Association in terms of the Botswana<sup>1</sup> Police Rifle Association Proclamation, 1956, of an arm certificate in respect of arms or ammunition to be used solely for target practice or drill by the members of the club or on the renewal of an arm certificate so granted.

(3) No fee shall be payable on the grant or renewal of an arm certificate if the licensing officer is satisfied that the arm and ammunition to which the certificate relates is —

- (a) a signalling apparatus or ammunition therefor which the applicant requires as part of the equipment of an aircraft or aerodrome; or
- (b) a slaughtering instrument or ammunition therefor which the applicant requires for the purpose of the slaughter of domestic animals.

#### **Exemptions from Holding Arm Certificate.**

8. (1) The following provisions of this section shall have effect notwithstanding anything in section 5.

(2) A person carrying on the business of an arms dealer and registered as such under this Proclamation or a servant of such person may, without holding an arm certificate, purchase, acquire or have in his possession arms or ammunition in the ordinary course of that business.

(3) A person carrying on the business of an approved armourer or a servant of such person may, without holding an arm certificate, have in his possession at any one time not more than six arms and have in his possession ammunition in the ordinary course of that business.

(4) A person carrying on the business of an approved carrier or warehouseman or a servant of such person may, without holding an arm certificate, have in his possession arms or ammunition in the ordinary course of that business.

(1) As amended by L.N. 84/1966

## C.10

(5) Any person may, without himself holding an arm certificate, have in his possession an arm or ammunition belonging to another person —

- (a) if he is a *bona fide* employee of that other person and is in possession of the arm or ammunition under instructions from that other person ;
- (b) if he is a member of that other person's family residing with that other person or is a *bona fide* household guest of that other person ;
- (c) if he is a member of a rifle club affiliated to the Botswana<sup>1</sup> Police Rifle Association as aforesaid and is in possession of the said arm or ammunition for the purposes of any target practice or drill organised by the said Association ;
- (d) in the case of a miniature rifle not exceeding 0.22 calibre and ammunition suitable therefor, at a miniature rifle range or shooting gallery ;
- (e) at any athletic or sports meeting, for the purpose of starting races at that meeting.

(5A) A person who has obtained an import/export permit under section 25 may, without holding an arm certificate, have in his possession an arm and the ammunition therefor, as specified in the permit, during the period specified in the permit.<sup>2</sup>

- (6)(a) A person who has obtained from the licensing officer for the area in which he resides a permit for the purpose in the prescribed form may, without holding an arm certificate, have in his possession an arm and the ammunition therefor as specified in the permit. No such permit shall be issued in respect of, or be valid for, a period exceeding three months.
- (b) A permit under this sub-section shall not be granted to any person in respect of any arm or ammunition unless the licensing officer is satisfied that such person would, on application, be granted an arm certificate in respect of that arm or ammunition.
- (c) A permit under this sub-section may at any time be revoked by the licensing officer for the area in which the holder resides if the licensing officer is satisfied that the holder would not, on application, be granted an arm certificate in respect of that arm or ammunition.

(7) Where a licensing officer revokes a permit under sub-section (6), he shall by notice in writing require the holder of the permit to surrender it and if the holder fails without reasonable cause, proof whereof shall lie upon him, to surrender it within fourteen days from the date of the notice, he shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months :

Provided that where an appeal is brought against the revocation, this sub-section shall not apply to that revocation unless the appeal is abandoned or

(1) As amended by L.N. 84/1966

(2) As inserted by Law 13/1965

dismissed, and shall in either case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.

- (7A)(a) On the application of any person in the prescribed form and on payment of the prescribed fee a licensing officer may issue to such person a certificate of exemption in the prescribed form, if in his opinion the arm to which the application relates is, through reason of age or wear and tear, incapable of being fired without substantial repair.<sup>1</sup>
- (b) A certificate of exemption issued under this sub-section shall authorise the holder thereof to have in his possession, without holding an arm certificate, the arm to which the certificate relates.
- (c) If an arm in respect of which a certificate of exemption was issued under this sub-section is repaired so as to make it capable of being fired the certificate of exemption shall be deemed to be revoked from the time of such repair.<sup>1</sup>

(8) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under sub-section (6) or the grant of an exemption certificate under sub-section (7A)<sup>2</sup> he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

#### **Refusal of Arm Certificate without Production of Arm.**

9. (1) Notwithstanding anything contained in any of the foregoing sections, a licensing officer may refuse to grant or renew or vary an arm certificate or to grant a permit under Section 8(6) or the grant of an exemption certificate under section 8(7A)<sup>2</sup>, unless and until any arm to which the certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary, in accordance with the requirements of sub-section (2).

(2) No arm certificate shall be granted or renewed and no permit under section 8(6) or the grant of an exemption certificate under section 8(7A)<sup>2</sup> shall be granted in respect of an arm unless that arm bears a mark or number of identification or is first marked with such a mark or number in accordance with the directions of the licensing officer.

#### **Manufacture of Arms and Ammunition.**

10. (1) No person shall manufacture any arm or ammunition in Botswana<sup>3</sup>.

(2) In this section, the word "manufacture", in relation to arms or ammunition, does not include the repair of arms or ammunition or the alteration or

(1) As inserted by Law 9/1963

(2) As amended by Law 9/1963

(3) As amended by L.N. 84/1966

## C.12

substitution or replacement of any component part of an arm but does include the conversion into an arm of anything which has the appearance of an arm but is so constructed as to be incapable of discharging a missile through the barrel thereof.

(3) Any person contravening the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding R1000 or to both such imprisonment and fine.

### **Production of Arm Certificate.**

11. (1) Subject to the provisions of sub-section (2), any police officer or customs officer may order any person whom he finds in possession of an arm or ammunition to produce his arm certificate for inspection or to show that he is entitled by virtue of this Proclamation to have the arm or ammunition in his possession without holding an arm certificate, at such place and time and to such police officer or customs officer as he may specify.

(2) Any person who is able to give such an officer a satisfactory address within Botswana<sup>1</sup> shall be allowed by that officer thirty days to comply with the provisions of the preceding sub-section.

(3) Any person who fails to comply with the provisions of an order under sub-section (1) or who gives a false name or address to an officer under sub-section (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months.

### **Production of Arms and Ammunition.**

12. (1) Any police officer or customs officer may require any person who holds an arm certificate or a permit under section 8(6) or the grant of an exemption certificate under section 8(7A)<sup>2</sup> to produce any arm or ammunition to which the certificate or permit relates, at such time and place as the officer may specify, for his own inspection or for the inspection of such other police officer or customs officer as he may specify.

(2) Any person who, without reasonable cause, proof whereof shall lie upon him, fails to produce any arm or ammunition as aforesaid shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months.

### **Unregistered Dealing in Arms.**

13. (1) Subject to the provisions of this Proclamation, no person shall by way of trade or business —

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(1) As amended by L.N. 84/1966

(2) As amended by Law 9/1963



(a) sell or transfer ; or

(b) expose for sale or transfer, or have in his possession for sale or transfer, any arm or ammunition, unless he is registered under this Proclamation as an arms dealer.

(2) Any person contravening the provisions of this section shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

#### **Registration of Arms Dealers.**

14. (1) For the purposes of this Proclamation the licensing officer for every area shall keep in the prescribed form a register of arms dealers and, subject as hereinafter provided, shall enter therein the name of any person who, having or proposing to have a place of business in his area and not being declared ineligible for registration by order of a court made under section 20, produces the written authority of the President<sup>1</sup> for him to be registered as an arms dealer at that place of business and furnishes the licensing officer with the prescribed particulars.

(2) On the registration of an applicant as an arms dealers there shall be payable such fee as may be prescribed :

Provided that no fee shall be payable if the place of business in respect of which the application is made is one to which the applicant proposes to transfer the business previously carried on by him at a place entered in the register for another area.

(3) If the President<sup>1</sup> having given reasonable notice to any person whose name is on the register, is satisfied that that person cannot be permitted to continue to carry on business as an arms dealer at the registered place of business without danger to the public safety or to the peace, he shall cause the name of that person to be removed from the register.

(4) The licensing officer shall cause the name of any person to be removed from the register if that person so desires, or if, after giving reasonable notice to that person, he is satisfied that that person is no longer carrying on business as an arms dealer at the registered place of business.

(5) If any person, for the purpose of procuring the registration of himself or any other person as an arms dealer, makes any statement which he knows to be false, he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200, or to both such imprisonment and fine.

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(1) As amended by L.N. 84/1966

## C.14

### Certificate of Registration.

15. (1) The licensing officer shall grant or cause to be granted to any person who is registered as an arms dealer under section 14 a certificate of registration.

(2) On or before the first day of January in each year every person for the time being registered as an arms dealer in any area shall —

- (a) apply in the prescribed form for a new certificate of registration; and
- (b) pay such fee as may be prescribed.

and thereupon the licensing officer shall, subject to the provisions of section 14 (3) and (4), grant him a new certificate of registration.

(3) If any such person fails to comply with any of the requirements of sub-section (2) on or before the first day of February in any year, the licensing officer shall cause the name of that person to be removed from the register.

(4) In any case where a licensing officer causes the name of any arms dealer to be removed from the register he shall by notice in writing require the dealer to surrender his certificate of registration, and if the dealer without reasonable cause proof of which shall lie upon him, fails to do so within twenty-one days from the date of the notice, he shall be guilty of an offence and be liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months:

Provided that —

- (i) where an appeal is brought against the removal, this sub-section shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;
- (ii) until the dealer surrenders his certificate or registration in accordance with the provisions of this sub-section, or, if he fails so to surrender his said certificate, until the expiration of the aforesaid period of twenty-one days, the dealer shall be deemed to be registered as an arms dealer for the purpose only of disposing of the stock in hand of his business.

### Separate Places of Business.

16. No arms dealers shall be registered under section 14 in respect of more than one place of business without a separate registration for each place of business concerned:

Provided that where one business is carried on in premises divided by walls but otherwise forming part of one building or structure, one registration only shall be required therefor:

Provided further that nothing in this section shall prohibit the use of separate premises purely for the purpose of storing goods used or required in the registered business.

**Restrictions on Sale or Transfer.**

17. (1) No person shall sell or transfer to any other person in Botswana<sup>1</sup> any arm or ammunition unless that other person produces an arm certificate authorising him to purchase or acquire it or shows that he is by virtue of this Proclamation entitled to purchase or acquire it, as the case may be, without holding such a certificate:

Provided that this sub-section shall not apply to the delivery of an arm or ammunition by an approved armourer or an approved carrier or a warehouseman, or a servant of an approved armourer or approved carrier or warehouseman in the ordinary course of his business or employment as such.

(2) Any person contravening the provisions of this section shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

**Arm Certificate to be Endorsed on Sale or Transfer of Ammunition.** <sup>2</sup>

17A. (1) When a registered arms dealer sells or transfers ammunition to any person who produces an arm certificate authorising him to purchase or acquire the same the dealer shall forthwith enter upon the certificate such particulars concerning the transaction as may be prescribed.

(2) Any person who —

(a) fails to comply with the provisions of this section; or

(b) knowingly makes any false entry on an arm certificate;

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200, or to both such imprisonment and fine.

**Register of Transactions.**

18. (1) Every person who by way of trade or business deals in, sells or transfers arms or ammunition, or repairs, tests or proves arms shall provide and keep a register of transactions and shall enter or cause to be entered there in such particulars as may be prescribed.

(2) Every such entry shall be made within twenty-four hours after the transaction to which it relates took place, and, in the case of a sale or transfer, every person mentioned in sub-section (1) shall at the time of the transaction require the purchaser or transferee to furnish particulars sufficient for his identification and shall immediately enter the particulars in the register.

(3) Every person mentioned in sub-section (1) shall on demand at any

(1) As amended by L.N. 84/1966

(2) As inserted by Law 12/1961

## C.16

reasonable time allow any police officer of or above the rank of Sub-Inspector to enter and inspect all arms and ammunition in his possession and shall on request by such officer produce for inspection the register required to be kept as aforesaid.

(3A) Every person mentioned in sub-section (1) shall furnish to the licensing officer returns of the transactions mentioned in that sub-section at such times, in respect of such periods and in such form as may be prescribed. <sup>1</sup>

(4) Any person who —

- (a) fails to comply with any of the provisions of this section; or
- (b) knowingly makes any false entry in a register required to be kept or a return required to be furnished under this section, or falsely alters or erases any entry made in such a register or return; or <sup>1</sup>
- (c) knowingly furnishes any false particular of identification of himself or of any other person;

shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200, or to both such imprisonment and fine.

### **Storage and Safe Custody.**

19. (1) Every registered arms dealer shall make suitable provision at his place of business for the storage and safe custody to the satisfaction of the licensing officer of all arms and ammunition in his possession.

(2) Every person having in his possession any arm or ammunition shall take all reasonable precautions to ensure that that arm or ammunition is not at any time available to any person not lawfully entitled to possess the same.

(3) Any person failing to comply with the provisions of this section shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

### **Powers of Court in Case of Offences by Registered Arms Dealers.**

20. Where a registered arms dealer is convicted of an offence against this Proclamation or against any law for the time being in force in Botswana<sup>2</sup> relating to customs in respect of the import or export of arms or ammunition, the court may

- (a) that the name of the registered arms dealer be removed from the register;
- and
- (b) that neither the dealer nor any person who acquires the business of that dealer, nor any person who took part in the management of the business and

(1) As amended by Law 12/1961

(2) As amended by L.N. 84/1966

was knowingly a party of the offence, shall be registered as an arms dealer ;  
and

- (c) that any person who, after the date of the order, knowingly employs in the management or conduct of his business the dealer convicted of the offence, or any person who was knowingly a party to the offence, shall not be registered as an arms dealer or, if so registered, shall be removed from the register ; and
- (d) that any stock in hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order :

Provided that a person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the court by which such person is convicted may, if it thinks fit, suspend the operation of the order pending the appeal.

#### **Loss of Arms or Ammunition to be Reported.**

21. Any person having possession of an arm or ammunition shall, if that arm or ammunition is lost, stolen or destroyed, report such loss, theft or destruction as soon as possible after its occurrence to the police officer in charge of the nearest police station and, if such person fails to do so, he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

#### **Appeals. —**

22. (1) Any person aggrieved by the refusal of a licensing officer to grant him an arm certificate under section 6 of this Proclamation or to renew an arm certificate or by the revocation of an arm certificate or by a refusal of a licensing officer to grant him a permit under section 8(6), or by the revocation of such a permit, or by the removal by a licensing officer of his name from the register of arms dealers, under section 14(4), may appeal in writing to the Minister<sup>1</sup>, whose decision shall be final.

(2) Notice of appeal under this section specifying the grounds thereof shall be lodged with the licensing officer within fourteen days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved and the licensing officer shall cause the notice of appeal to be sent to the Minister<sup>1</sup> without delay.

(3) On an appeal under this section the Minister<sup>1</sup> may either dismiss the appeal or give such directions as he may think fit to the licensing officer against whose decision the appeal has been lodged.

(1) As amended by L.N. 55/1965, 84/1966 and 94/1966

## C.18

### **Saving.**

23. Nothing in this Part shall relieve any person using or carrying an arm from the obligation to take out a licence to kill game under any law for the time being in force relating to such licences.

## **PART II**

### **MISCELLANEOUS PROVISIONS AS TO ARMS AND AMMUNITIONS**

#### **Special Types of Weapons and Ammunition.**

24. (1) It shall not be lawful for any person, other than a person in the service of the State<sup>1</sup> in his capacity as such or a person authorised in writing in that behalf by the President<sup>1</sup> or a person of a class for the time being authorised in that behalf by the President<sup>1</sup> by notice in the *Gazette*, to sell, transfer, purchase, acquire, or have in his possession —

- (a) any arm which is so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty; or
- (b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing; or
- (c) any ammunition containing, or designed or adapted to contain, any such noxious thing; or
- (d) any arm or ammunition or type or class thereof specified by the President<sup>1</sup> by notice in the *Gazette*.

(2) Any person contravening the provisions of sub-section (1) shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding R500 or to both such imprisonment and fine.

(3) An authority given under this section shall be subject to such conditions as may be specified therein, and, if any person so authorised fails to comply with any such condition, he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

(4) The President<sup>1</sup> may at any time, if he thinks fit, revoke any individual authority given by him to any person under this section by notice in writing requiring that person to deliver up the authority to such person as may be specified in the notice within fourteen days from the date of the notice, and if that person, without reasonable cause, proof of which shall lie upon him, fails to comply with that requirement, he shall be guilty of an offence and be liable on conviction to

(1) As amended by L.N. 84/1966

imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

(5) An authority given by the President<sup>1</sup> under this section to any class of persons may at any time be revoked or varied by the President<sup>1</sup> by notice in the *Gazette*.

(6) The foregoing provisions of this section shall be in addition to and not in derogation of any other provisions of this Proclamation, but a licensing officer shall not refuse to grant or renew and shall not revoke an arm certificate in respect of an arm, weapon or ammunition referred to in sub-section (1) if the applicant is for the time being authorised as aforesaid to have possession of that arm, weapon or ammunition, and where any authority to purchase, acquire or have possession of an arm, weapon or ammunition is revoked under this section, the arm certificate relating to that arm, weapon or ammunition shall be revoked accordingly by the licensing officer by whom it was granted.

#### **Importation and Exportation.**

25. (1) In this section, "arm" and "ammunition" mean respectively an arm and ammunition to which Part I of this Proclamation applies <sup>2</sup>

(2) No person shall import into Botswana<sup>1</sup> any arm or ammunition save under and in accordance with the terms of an import permit or import/export permit<sup>3</sup> issued by a licensing<sup>2</sup> officer or under and in accordance with the terms of any re-entry provisions of an export permit issued by a licensing<sup>2</sup> officer:

Provided that where any arm or ammunition, not being an arm or ammunition the importation of which is for the time being prohibited under this Proclamation or any other law, is imported into Botswana<sup>1</sup> for the personal use of the owner thereof but otherwise than under the authority of an import permit or import/export<sup>3</sup> permit or re-entry conditions of an export permit, the importation shall not be deemed to contravene the provisions of this section if the arm or ammunition is forthwith delivered to a police station until an import permit under this section is obtained in respect of the importation thereof.

(3) No person shall export from Botswana<sup>1</sup> any arm or ammunition save under and in accordance with the terms of an export permit issued by a licensing<sup>2</sup> officer.

(4) No person shall import into or export from Botswana<sup>1</sup> any arm or ammunition, or any arm or ammunition of a class or type of which the importation or exportation, as the case may be, is for the time being prohibited by the President<sup>1</sup> by order published in the *Gazette*.

(5) Any person contravening any of the provisions of sub-sections (2), (3) or (4) shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

(1) As amended by L.N. 84/1966

(2) As amended by Law 9/1963

(3) As amended by Law 13/1965

## C.20

(6) Subject to the provisions of sub-section (6A) hereof, a licensing<sup>1</sup> officer may, in his discretion and without assigning any reason therefor, refuse to grant any import or export permit under this section and shall not grant any permit authorising —

- (a) the importation or exportation of any arms or munitions of war unless the President<sup>2</sup> has sanctioned such importation or exportation; or
- (b) the importation or exportation of any arm or ammunition of which the importation or exportation is for the time being prohibited under this Proclamation or any other law;
- (c) <sup>1</sup> the importation by any person or class of persons of any arm or ammunition —
  - (i) in respect of which a maximum quantity for importation has been prescribed unless authorised to do so by the Board;
  - (ii) in respect of which an importation restriction has been prescribed unless authorised to do so by the President;<sup>2</sup>

(6A) A licensing<sup>1</sup> officer shall not grant an import permit for the importation into Botswana<sup>2</sup> of any ammunition unless —

- (a) the applicant produces an arm certificate which entitles him to acquire and possess such ammunition and the licensing<sup>1</sup> officer enters upon the certificate such particulars concerning the permit as may be prescribed; or
  - (b) the applicant is an arms dealer registered as such under this Proclamation;
- or
- (c) the ammunition is to be imported into Botswana with the arm with which it is to be used.<sup>3</sup>

(6B) A licensing officer shall not grant an import/export permit under this section to any person unless he is satisfied that such person —

- (a) is not at the time of his application for such permit resident in Botswana;<sup>2</sup>
- (b) proposes to enter Botswana<sup>2</sup> for the purposes of a temporary visit only and to leave Botswana<sup>2</sup> at the termination of such visit before the expiration of a period of 90 days from the date of his entry;
- (c) has good reason for bringing an arm and the ammunition therefor with him during his visit; and
- (d) may possess that arm or ammunition without danger to the public safety or peace.<sup>4</sup>

(7) Import, import/export<sup>4</sup> and export permits under this section shall be in the prescribed form and there shall be payable in respect thereof such fees as may be prescribed.

(8) So long as an arm certificate in respect thereof continues to be in force, a licensing<sup>1</sup> officer in his discretion may permit —

(1) As amended by Law 9/1963      (3) As amended by Law 12/1966  
(2) As amended by L.N. 84/1966      (4) As amended by Law 13/1965



## C.21

- (a) the exportation of any arm and a reasonable quantity of ammunition therefor; and
- (b) the re-importation of the said arm and such of the said ammunition as remains.

on any number of occasions in the same year.

(9) A licensing<sup>1</sup> officer may, without assigning any reason therefor, revoke any import, import/export<sup>2</sup> or export permit granted under this section at any time before the arm or ammunition to which it relates have been imported or in the case of an export permit exported<sup>2</sup>, in pursuance thereof.

(10) Any person making any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the issue of an import, import/export<sup>2</sup> or export permit under this section, shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

### **Constitution of Arms and Ammunition Quota Board.<sup>3</sup>**

25A. (1) There is hereby constituted a board to be known as the Arms and Ammunition Quota Board consisting of a Chairman appointed by the Minister by notice in the *Gazette*, the Commissioner of Police, or, if the Commissioner of Police so directs, the Deputy Commissioner of Police, and the Game Officer.

(2) The functions of the Board shall be to consider in the prescribed manner all applications for import permits relating to arms or ammunition in respect of which a maximum quantity for importation has been prescribed and in its absolute discretion to authorise or refuse the issue of such permits.

(3) If it appears to the President<sup>4</sup> to be expedient to make any change in the composition of the Board, he may, by order published in the *Gazette*, direct that sub-section (1) shall have effect with such modification as may be specified in the order.

### **Places of Importation.**

26. (1) In this section "arm" and "ammunition" mean respectively an arm and ammunition to which Part I applies.

(2) No person shall import any arm or ammunition into Botswana<sup>4</sup> other than to the districts of Chobe, Ghanzi, or Kgalagadi by way of trade or business or for the purpose of any trade or business or for any purposes other than his own personal use otherwise than by railway.

(3) A person who imports into Botswana<sup>4</sup> any arm or ammunition by way of trade or business or for the purposes of any trade or business or for any purpose other than his own personal use shall consign or cause to be consigned such arm

(1) As amended by Law 9/1963

(3) As inserted by Law 9/1963, L.N. 28/1965 and 84/1966

(2) As amended by Law 13/1965

(4) As amended by L.N. 84/1966

## **C.22**

or ammunition to a railway station designated for this purpose by the Minister,<sup>1</sup> and no arm or ammunition so imported shall be removed from the railway station to any place other than the office of the nearest customs officer.

(4) Any person contravening any of the provisions of this section shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

### **Arms and Ammunition in Transit by Railway.**

27. Notwithstanding anything in this Part contained, the transit of arms and ammunition through Botswana<sup>2</sup> in the course of a single railway journey shall be lawful and shall not of itself constitute any offence under this Proclamation.

### **Possession of Arms and Ammunition by Young Persons.**

28. No person under the age of fifteen years shall have in his possession any arm or ammunition to which Part I applies except under the immediate supervision of an adult who is the holder of an arm certificate or permit or is entitled under the said Part to possess the arm or ammunition in question without an arm certificate or permit, and, in addition no person under the age of twelve years shall possess any such arm or ammunition except with the written permission of the licensing officer and in accordance with any conditions imposed therein.

### **Carrying an Arm While Drunk or Disorderly.**

29. Any person who is drunk or who behaves in a disorderly manner while carrying an arm to which Part I of this Proclamation applies shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200 or to both such imprisonment and fine.

### **Penalty for Use and Possession of Arms or Imitation Arms.**

30. (1) Any person who makes or attempts to make any use whatsoever of an arm or imitation arm with intent to resist or prevent the lawful apprehension or detention of himself or any other person shall be liable on conviction to imprisonment for a term not exceeding fourteen years: and where any person commits any such offence in respect of the lawful apprehension or detention of himself for any other offence committed by him, he shall be liable to the penalty provided in this sub-section in addition to any penalty to which he may be sentenced for that other offence.

(2) In this section, the expression "imitation arm" means anything which has the appearance of being an arm, whether it is capable of discharging any shot, bullet or other missile or not.

(1) As amended by L.N. 55/1965, 84/1966 and 94/1966

(2) As amended by L.N. 84/1966

**Forging Arm Certificate or Permit.<sup>1</sup>**

30A. Any person who —

- (a) forges any certificate or any permit mentioned in this Proclamation ; or
- (b) alters or erases any part of any such certificate or permit or any entry lawfully made thereon ; or
- (c) produces or uses any certificate or permit which to his knowledge has been unlawfully altered or from which erasures have been unlawfully made ;  
or
- (d) produces or uses any certificate or permit in the name of some other person, living or dead, or of a fictitious person ;

shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding R200, or to both such imprisonment and fine.

**Appeals.**

31. (1) Any person who is aggrieved by the refusal of a licensing officer to issue to him an import permit under section 25 other than an import permit for an arm or ammunition in respect of which a maximum quantity for importation has been prescribed, or an import/export permit or an export permit under section 25 or by the revocation of any such permit, may appeal in writing to the Minister whose decision shall be final.<sup>2</sup>

(2) The provisions of section 22(2) and (3) shall apply *mutatis mutandis* to appeals under this section.

**PART III****GENERAL****Restriction on Convicted Person Possessing Arms or Ammunition.**

32. (1) Where any person —

- (a) is convicted of an offence under this Proclamation or is convicted of an offence for which he is sentenced to imprisonment or to detention of any description ; or
- (b) has been ordered to enter into recognizance to keep the peace or to be of good behaviour a condition of which is that the offender shall not possess, use or carry an arm,

(1) As inserted by Law 12/1961 and 9/1963

(2) As amended by Law 9/1963, L.N. 55/1965' 84/1966 and 94/1966

## C.24

the following provisions shall apply —

- (i) the court before whom such person is convicted or by whom the order is made may order the forfeiture to the State<sup>1</sup> of any arm or ammunition which was found in that person's possession or in respect of which the offence of which he is convicted was committed and may cancel any arm certificate or permit under section 8(6) held by the person convicted;
- (ii) in the case of a person convicted, or convicted and sentenced, as mentioned in paragraph (a) of this sub-section, the court before which he is convicted may order that such person shall not, at any time during such period, not exceeding ten years from the date of his conviction or release, as may be specified in the order, have in his possession any arm or ammunition or any type or class thereof specified in the order;
- (iii) any arms or ammunition forfeit to the State<sup>1</sup> under this sub-section shall be sold or otherwise disposed of as the Minister<sup>2</sup> may direct.

(2) Subject to the provisions of this section, no person who is subject to a recognizance to keep the peace or to be of good behaviour a condition of which is that he shall not possess, use or carry an arm shall at any time during which he is so subject as aforesaid have an arm or ammunition in his possession.

(3) Subject to the provisions of any other law for the time being in force under which a condition or requirement such as is referred to in sub-section (2) of this section is imposed or made, a person prohibited by the said sub-section from having in his possession an arm or ammunition may apply to the Minister<sup>2</sup> for exemption from such prohibition, and if the application is granted, the provisions of the said sub-section shall cease to apply to that person.

(4) The Minister<sup>2</sup> may, in his absolute discretion, grant or refuse any such application for exemption as aforesaid and shall not be required to assign any reason for the refusal of any such application.

(5) Where a court cancels an arm certificate or permit under this section —

- (a) the court shall cause notice to be sent to the licensing officer by whom the arm certificate or permit was granted; and
- (b) the licensing officer shall by notice in writing require the holder of the arm certificate or permit to surrender it; and
- (c) if the holder fails without reasonable cause, proof of which shall lie upon him, to surrender the arm certificate or permit within fourteen days from the date of the last-mentioned notice, he shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a term not exceeding three months.

(6) Subject to the provisions of sub-section (5)(c), if any person contravenes this section or any order made thereunder, he shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding six months

(1) As amended by L.N. 84/1966

(2) As amended by L.N. 55/1965 and 94/1966

or to a fine not exceeding R200 or to both such imprisonment and fine.

#### **Service of Notices.**

33. Any notice required or authorised by this Proclamation to be given to any person may be sent by registered post in a letter addressed to him at his last or usual place of abode, or in the case of a registered arms dealer, at the place of business in respect of which he is registered.

#### **Power to Make Regulations and Issue Orders.**

34. (1) The President<sup>1</sup> may make regulations —

- (a) prescribing the form of an arm certificate and of any register required to be kept under this Proclamation and of any other permit or document under this Proclamation;
- (b) prescribing the fees to be paid for anything done or for any permit, document or authorisation issued or granted under this Proclamation;
- (c) prescribing maximum quantities for the importation of any arm or ammunition or any class thereof by any person or class of persons;
- (d) prescribing any other thing which under this Proclamation is to be prescribed;
- (e) prohibiting or restricting the importation of any arm or ammunition or any class thereof;
- (f) providing for the establishment and maintenance of a central registry of arms and ammunition;
- (g) regulating the manner in which licensing officers and other officers are to carry out their duties under this Proclamation;
- (h) enabling all or any of the functions of a licensing officer to be discharged by deputy in the event of the illness or absence or a vacancy in the office of a licensing officer;
- (i) generally for carrying this Proclamation into effect.

(2) The Minister<sup>2</sup> may issue orders relating to the powers and duties of licensing officers under this Proclamation for the better carrying into effect of the purposes and provisions of this Proclamation.

#### **Savings.**

35. (1) The provisions of each Part of this Proclamation shall be in addition to and not in derogation of the provisions of any other Part of this Proclamation or of any other law for the time being in force in Botswana<sup>1</sup> and relating to the

(1) As amended by L.N. 84/1966

(2) As amended by L.N. 55/1965 and 94/1966

## C.26

manufacture, sale, transfer, purchase, acquisition, possession, use, storage, carriage, transportation, importation or exportation of arms, ammunition or explosives.

(2) Nothing in this Proclamation relating to arms shall apply to an antique arm which is sold, transferred, purchased, acquired, imported, exported, transported or possessed as a curiosity or ornament.

(3) Notwithstanding any rule of law whereunder the provisions of this Proclamation do not bind the State<sup>1</sup>, the provisions of section 19(2) and (3) and section 29 shall apply to persons in the service of State<sup>1</sup> in their capacity and in the course of their duty as such.

### **Repeal.**

36. The Arms and Ammunition Proclamation is hereby repealed, and all regulations made, and licences, permits and authorisations issued or granted thereunder shall, on the commencement of this Proclamation, cease to be of effect.

37.<sup>2</sup>

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(1) As amended by L.N. 84/1966

(2) Repealed by Law 30/1962

**THE HABIT-FORMING DRUG PROCLAMATION (CHAPTER 57)**

as amended by

**THE HABIT-FORMING DRUG (AMENDMENT) LAW, 1962**

(Date of Effect 21st September, 1962)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendment Incorporation Law, 1961.

Date of Reprint: 13th January 1967.

## CHAPTER 57

### HABIT-FORMING DRUGS

*To regulate and control the importation and the exportation and the production and use of opium and other habit-forming drugs*

36 of 1922  
5 of 1925  
55 of 1931  
Cap. 43  
48 of 1954  
1 of 1956  
31 of 1962  
L.N. 84 of 1966

#### Short Title.

1. This Proclamation may be cited as the Habit-forming Drug Proclamation.

#### Interpretation

2. In this Proclamation and in any regulations made thereunder, unless the context otherwise clearly requires, "habit-forming drug" or "drug" means and includes the following, as herein defined:

- "coca leaves", the leaves of *Erythroxylon coca*;
- "cocaine", the principal alkaloid of coca leaves, including all preparations, admixtures or derivatives prepared therefrom or therewith and containing one-tenth or more per cent of cocaine or of any derivative of cocaine;
- "cannabis", "dagga", "motokwane", "intsangu" or "Indian hemp", under whatever name it may be described, sold, supplied or otherwise referred to or dealt with: and whether the whole or any portion of the plant: and all extracts, tinctures or preparations or admixtures therefrom (except cannabis *Indica* plasters);
- "diamorphine" or "diacetyl-morphine", also known as heroin, including all preparations, salts, admixtures or derivatives prepared therefrom or therewith and containing one-tenth or more per cent of diamorphine or of any derivative of diamorphine;
- "ecgonine", including all preparations, salts, admixtures or derivatives prepared therefrom or therewith and containing one-tenth or more per cent of ecgonine or of any derivative of ecgonine;



“morphine”, the principal alkaloid of opium, including all preparations, salts, admixtures or derivatives prepared therefrom or therewith and containing one-fifth or more per cent of anhydrous morphine or of any derivative of morphine;

“opium”, including —

“raw opium”, the untreated coagulated juice of the capsules of *papaver somniferum*; the expression includes gum opium and powdered and granulated opium, also the leaves or wrappings in which opium has been wrapped;

“prepared opium”, opium prepared for smoking; the expression shall include opium dross or refuse or any residue remaining after opium has been smoked or roasted;

“medicinal opium”, raw opium which has been artificially dried, whether pure or mixed with other substances;

“extract of opium”, including both the solid and the liquid extracts; every other preparation, admixtures, compound or derivative of opium containing one-fifth or more per cent of anhydrous morphine or other narcotic alkaloid;

(2)(a) All esters of morphine, dihydro-oxycodine, dihydro-codeine, dihydro-morphine, their salts and preparations; and

(b) Acetyldihydrocodeine and its salts and any preparation, admixture, extract or other substance containing any proportion of acetyldihydrocodeine.

### **Returns of Habit-forming Drugs.**

3. (1) Every person who at the date of the taking effect of this Proclamation is lawfully entitled to keep for sale and sell within Botswana any habit-forming drug shall, prior to a date to be fixed by the President and notified in the *Gazette* make a return to the District Officer of the district in which such person resides, or in which his business is situated, of all stocks of such drugs in his possession. The District Officer, on being satisfied of the accuracy of the said return, shall issue a permit authorising such person to possess the stocks so declared, and to sell or dispose of the same so long as he continues to be entitled to keep such drugs for sale.

(2) Every such return shall be made in a form prescribed by regulation.

(3) Any such person who fails to make such return within the period prescribed as aforesaid or who wilfully supplies a misleading or an incorrect return or who sells, supplies, or is found in possession of any such drug without being in possession of a permit issued as in this section provided, shall be liable on conviction to the penalties mentioned in section 8.

## C.30

### Restrictions on Dealing in Drugs.

4. (1) Save as in this Proclamation is provided no person shall —

- (a) import, export, produce or manufacture, or assist in, or permit or allow the importation, exportation, production or manufacture of any habit-forming drug; or
- (b) import, cultivate, or export or assist in, or permit or allow the importation, cultivation, or exportation of any plant from which such drug can be extracted, derived, produced or manufactured; or
- (c) administer, give, sell, barter, exchange, or otherwise supply, or use, accept, purchase, take in exchange or otherwise receive any such drug or plant anything to the contrary in any other law notwithstanding.

(2) Notwithstanding anything contained in this Proclamation no person shall import into Botswana<sup>1</sup> or export therefrom any prepared opium.

### Permits to Import and Export Drugs.

5. (1) A duly registered medical practitioner, dentist, or chemist and druggist or duly qualified veterinary surgeon may, when authorised thereto by permit issued under the authority of the President<sup>1</sup> by such officer or officers as may from time to time be designated by him, import from without Botswana<sup>1</sup> or acquire by purchase or otherwise from a licensed producer or manufacturer within Botswana stated quantities of any such drug. Such permit shall be in the form and shall contain such conditions as may be prescribed by regulation.

(2) Any such drug imported into Botswana or purchased or otherwise acquired, except on the authority of such permit, may be seized on the order of the President and declared by him without legal proceedings, to be forfeited.

(3) A duly registered medical practitioner, dentist, chemist and druggist, or a duly qualified veterinary surgeon may, when authorised thereto by permit issued under the authority of the President by such officer or officers as may from time to time be designated by him, export a stated quantity of any such drug. Such permit shall be in the form and shall contain such conditions as may be prescribed by regulation.

### Issue of Permits.

6. On being satisfied that there is a reasonable and legitimate demand<sup>1</sup> for medical, surgical, dental or veterinary purposes, for any drug which can be extracted, derived, produced or manufactured within Botswana,<sup>1</sup> the President<sup>1</sup> may in his discretion authorise the issue of —

- (a) permits for the importation, or licences for the cultivation of plants from which such drug can be extracted, derived, produced, or manufactured;

(1) As amended by L.N. 84/1966

- (b) licences for the extraction, derivation, production or manufacture of such drug.

Every such permit or licence, as the case may be, shall set forth the place from which such plants may be imported or the place at which they may be cultivated or at which such drug may be extracted, derived, produced, or manufactured, and shall contain such conditions as to cultivation, extraction, derivation, production, manufacture, importation, exportation, storage, distribution and sale as the President may deem necessary for the purpose of giving effect to the objects of this Proclamation.

#### **Use of Drugs and Particulars to be Kept.**

7. (1) Any such drug imported or acquired by a medical practitioner, dentist, or veterinary surgeon, or, as hereinafter provided, sold or supplied by a chemist and druggist to a medical practitioner, dentist or veterinary surgeon shall be used by such medical practitioner, dentist or veterinary surgeon exclusively for professional purposes in the course of his practice.

(2) Any such drug imported or acquired by a chemist and druggist may be sold or supplied to a duly registered medical practitioner or dentist or to a duly qualified veterinary surgeon for professional purposes or to another chemist and druggist for purposes authorised by this Proclamation on the written order of such medical practitioner, dentist, veterinary surgeon, or chemist and druggist; and may also be sold or supplied for strictly medical, surgical, dental or veterinary purposes —

- (a) upon a written prescription of a medical practitioner, dentist, or veterinary surgeon; or
- (b) upon a written order of a medical practitioner to or on behalf of any hospital, nursing home or sanatorium for use therein exclusively for such medical, surgical or dental purposes as are named in the order; or
- (c) when it occurs as an incidental ingredient in any recognised pharmacopoeial preparation or in any medicinal preparation which the President<sup>1</sup> by notice in the *Gazette* declares to be a recognised medicinal preparation for the purpose of this section upon a written order of the chemist or druggist requiring the same for the purpose of making such preparation.

Every such order or prescription shall state —

- (i) the quantity and description of such drug which may be sold or supplied thereon;
- (ii) the name and address of the person for or by whom such drug is prescribed or required or the name and address of the institution for which it is ordered, as the case may be;

(1) As amended by L.N. 84/1966

## C.32

- (iii) the full name and address and the profession or qualification of the person signing such order or prescription;
- (iv) the date of issue of such order or prescription.

Every such order or prescription shall be deemed to authorise one issue only of the drug mentioned therein, and shall be preserved and retained by the person supplying or selling the drug, and such person shall not supply a copy of such order or prescription or allow a copy to be made of the same except upon the order of the President.<sup>1</sup>

(3) Every chemist and druggist and every medical practitioner, dentist, or veterinary surgeon who compounds or dispenses medicines shall cause to be entered in a book to be kept exclusively for the purpose —

- (a) the quantity of any of the drugs possessed, imported, or acquired by him as aforesaid;
- (b) the date of the importation or acquisition;
- (c) the person from whom and the place from which the same were imported or acquired;
- (d) the quantity which has been disposed of and the manner in which and the person to whom such disposal has taken place.

Every such book shall be so kept as to show clearly, in addition to particulars of importation, acquisition, or sale, the amount of any such drug held in stock.

(4) Every such order or prescription as is referred to in sub-section (2) and every record made in such book as is referred to in sub-section (3) shall be preserved and retained for a period of at least three years, and shall be open to the inspection of any member of the Police Force of or above the rank of Sergeant or any other person authorised thereto in writing under the instructions of the President,<sup>1</sup> and any such chemist and druggist or medical practitioner or veterinary surgeon who personally or by any partner, manager, clerk, agent, apprentice or servant associated with or employed by him fails so to retain and preserve or forthwith upon demand to produce such order, prescription or book for inspection shall be liable upon conviction to a fine not exceeding R40 or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

### Restrictions on Use of Drugs.

8. No person shall use any pipe, receptacle, or material for smoking opium, Indian hemp or dagga, or, save and except in the circumstances contemplated in sections 6 and 7, consume, be in possession of, or use any habit-forming drug or plant from which such drug can be derived, extracted, produced, or manufactured

(1) Amended by L.N. 84 1966

and no person shall keep or assist in the keeping of or frequent any premises or place for the smoking of opium, Indian hemp or dagga, or for the surreptitious consumption, injection or administration in any manner whatsoever of any habit-forming drug.

#### **Powers of Policemen.<sup>1</sup>**

9. (1) In this section "authorised officer" means any member of the Botswana<sup>2</sup> Police of the rank of Sergeant or above or any other member of such Police holding a written authority from a member of such Police of the rank of Sub-Inspector or above authorising him to act as an authorised officer for the purposes of this section.

(2) If any authorised officer has reasonable grounds for believing that any person has committed an offence under the provisions of this Proclamation or the regulations, he may —

- (a) enter without a search warrant upon any land and there require any such person to produce for his inspection any habit-forming drug in his possession or any permit or licence or other document issued to him or required to be kept by him under the provisions of this Proclamation or the regulations;
- (b) without a search warrant search such person or any animal in the possession of such person and enter and search any land, building, vehicle, aircraft or boat in the possession or use of such person, and open and search any receptacle or thing in the possession of such person:

Provided that whenever a woman is searched, the search shall only be made by a woman and shall be made with strict regard to decency and if there is no woman available for such search who is a member of the Botswana Police, the search may be made by any woman specially named for the purpose by a Peace Officer;

- (c) subject to the provisions of sub-section (2), seize any habit-forming drug or any article or substance which he suspects of being a habit-forming drug, or any plant from which any such drug can be derived, extracted, produced or manufactured, or any pipe, receptacle or material for smoking opium, Indian hemp or dagga, in the possession of such person and any vehicle, aircraft, boat, receptacle, animal or thing in or upon which such habit-forming drug or article or substance or plant or pipe, receptacle or material was found, and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant and detain him;

(1) As replaced by Law 31/1962

(2) As amended by L.N. 84/1966

#### C.34

- (d) undertake any inspection which he may deem necessary to determine whether the provisions of this Proclamation or the regulations are being complied with.

(3) Every person who is detained and everything seized under the provisions of sub-section (1) shall be taken as soon as possible before a court of competent jurisdiction to be dealt with according to law.

#### Penalties.<sup>1</sup>

10. (1) Save as is provided by section 7(4), any person who contravenes any of the provisions of sections 4, 5, or 8 or any condition of a permit or licence issued under the provisions of sections 5 or 6 shall be guilty of an offence and liable on conviction to a fine not exceeding R1000 or, in default of payment thereof, to imprisonment not exceeding three years or to such imprisonment without the option of a fine or to both such fine and imprisonment.

(2) Where any person is convicted under the provisions of this Proclamation or the regulations the court shall order any habit-forming drug or plant or pipe, receptacle or material in respect of which the offence has been committed or any vehicle, aircraft, boat, animal, receptacle or thing in or upon which such habit-forming drug or plant or pipe, receptacle or material was found to be forfeited to the State.<sup>2</sup>

Provided that if the President<sup>2</sup> is satisfied that such vehicle, aircraft, boat animal, receptacle or thing is not the property of the person convicted and that the owner thereof was unable to prevent its use by the person so convicted, he may, if he considers it expedient to do so, order the return thereof to the owner.

(3) (a) If the convicted person used any motor vehicle to convey or carry the drug or plant or pipe, receptacle or material in respect of which the offence was committed, the court may suspend for a period not exceeding five years any driver's licence issued to that person in terms of the Motor Vehicle and Road Traffic Proclamation (Chapter 168 of the Laws of Botswana<sup>2</sup>) or any law hereafter substituted for the same and may cancel any motor vehicle plying-for-hire licence issued to that person in terms of the above Proclamation or any law hereafter substituted for the same, and may declare him to be disqualified from obtaining another such licence for a period not exceeding five years; and

(b) If the convicted person is the holder of any licence issued under the provisions of any law relating to the issue of trading licences, and it is proved to the satisfaction of the court that he used the licence to conceal or assist him in concealing the offence, the court may cancel the licence, and may declare that person to be disqualified from securing another such licence for a period not exceeding five years.

(1) As replaced by Law 31/1962

(2) As amended by L.N. 84/1966

(4) The provisions of sub-sections (2) and (3) shall be in addition to and not in derogation of the provisions of sub-section (1).

(5) Anything forfeited to the State<sup>2</sup> under the provisions of this sub-section shall be disposed of as the President<sup>2</sup> may direct.

#### **Subordinate Courts' Special Jurisdiction.<sup>1</sup>**

10A. Notwithstanding anything to the contrary contained in any law relating to Subordinate Courts, a Subordinate Court of the First Class shall have special jurisdiction to impose any penalties provided in this Proclamation for any contravention of the provisions of this Proclamation or the regulations.

#### **Vicarious Liability in Relation to Drugs.**

11. (1) Any duly registered medical practitioner, dentist or chemist and druggist or any duly qualified veterinary surgeon (as the case may be) shall be deemed to be guilty of and shall be liable to the penalties prescribed for any contravention of section 7 where the act or default constituting such contravention was that of a partner, manager, clerk, agent, apprentice, or servant associated with or employed by him unless he satisfies the Court before which he is charged that such act or default was not due to his negligence in the supervision or direction of such partner, manager, clerk, agent, apprentice or servant.

(2) Every director and manager resident in Botswana<sup>2</sup> of a company shall be liable to the penalties prescribed for a contravention of this Proclamation by such company.

#### **Onus of Proof.**

12. (1) If in any charge under this Proclamation it is alleged that dagga was being cultivated, evidence that such dagga was found growing in cultivated land shall be sufficient proof that it was being cultivated and that it was being cultivated with the knowledge of the owner or occupier of such land, unless, in either case, the contrary be proved.

(2) Any person who is upon or in charge of or who accompanies any vehicle, aeroplane or animal, in or upon which there is any habit-forming drug or drug mentioned in section 2 or any plant or portion of a plant from which any such drug can be extracted, derived, produced or manufactured shall, until the contrary be proved, be deemed for the purpose of this Proclamation, to be the possessor of such drug plant or portion of a plant.

(3) The burden of proving any fact which would be a defence to a charge of contravening any provision of this Proclamation shall lie upon the person charged.

(1) As inserted by Law 31/1962

(2) As amended by L.N. 84/1966

(4) Every person required by this Proclamation to be in possession of a permit to import, or acquire, or a licence to cultivate, or an order or prescription to sell or supply any plant or drug, as the case may be, shall be deemed to be without such permit, licence, order or prescription unless he produces or gives satisfactory proof of possessing the same.

(5) In any indictment, summons, or other form of charge under this Proclamation it shall be sufficient to set forth the offence charged in the words of this Proclamation or in similar words without negating any exception, exemption or qualification.

#### **Regulations.<sup>1</sup>**

13. (1) The President<sup>2</sup> may, by notice in the *Gazette*, make regulations not inconsistent with the provisions of this Proclamation for the better carrying out of the objects and purposes of any provision or requirement thereof.

(2) The regulations may provide that any person who contravenes any provision thereof or who fails to comply with any order, requirement or condition lawfully issued to or imposed on him by virtue of any regulation and with which it is his duty to comply shall be guilty of an offence. The regulations shall specify what penalty may be imposed for each offence thereby created and may also provide different penalties in the case of successive or continuous offences but no such penalty shall exceed a fine of R200 or, in default of payment thereof, imprisonment for a period of six months, or such imprisonment without the option of a fine or both such fine and imprisonment.

(3) Any regulations made under this section shall be laid before the National Assembly within four days after they are made if the National Assembly is then sitting or, if the National Assembly is not then sitting, on the next sitting day thereafter. If within the next subsequent twenty-one days on which the National Assembly sits after any such regulations are laid before it, the National Assembly resolves that the regulations shall be annulled, the regulations shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new regulations.

14.<sup>3</sup>

#### **Payment to Informer.**

15. The President<sup>2</sup> may pay out of the public revenue of Botswana<sup>2</sup> to a person (other than an officer in the public service) on whose information a charge is laid resulting in a conviction under this Proclamation, a sum not exceeding R40.

(1) As replaced by Law 31/1962

(2) As amended by L.N. 84/1966

(3) Repealed by Law 31/1962



**Extension of List of Habit-forming Drugs.**

16. The President<sup>1</sup> may by notice in the *Gazette* declare that any substance other than those defined in section 2 shall be a habit-forming drug within the meaning of this Proclamation; or that any of the substances defined in section 2 shall no longer be deemed to be a habit-forming drug within the meaning of this Proclamation; or may amend any of the definitions therein contained; and the provisions of this Proclamation shall apply to the definitions contained therein as altered by such addition, omission or amendment.

**Saving.**

17. This Proclamation shall be in addition to and not in substitution for any law or regulation which may be in force in Botswana<sup>2</sup> regulating the sale or disposal of drugs or poisons.

(1) As amended by Law 31/1962 and L.N. 84/1966

(2) As amended by L.N. 84/1966



**THE LEGAL PRACTITIONERS PROCLAMATION (CHAPTER 146)**

as amended by

**THE LEGAL PRACTITIONERS (AMENDMENT) LAW, 1962**

(No. 14 of 1962)

(Promulgated 7th August, 1962)

and

**THE LEGAL PRACTITIONERS (AMENDMENT) LAW, 1965**

(No. 19 of 1965)

(Promulgated 1st January, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement – 30th September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(No. 4)

(Legal Notice No. 99 of 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the Amendments Incorporation Law, 1961.

Date of Reprint : 20th January, 1967.

## LEGAL PRACTITIONERS

*To consolidate and amend the law relating to the admission and enrolment of legal practitioners to practise in Botswana<sup>1</sup>, and matters ancillary thereto.*

94 of 1955

13 of 1956

14 of 1962

19 of 1965

**Interpretation.**

1. In this Proclamation, unless inconsistent with the context —

(Attorney General)<sup>2</sup>

“British subject” includes a British protected person.

“Courts of Botswana” means and includes the Botswana<sup>1</sup> Court of Appeal, the High Court of Botswana<sup>1</sup> and the Subordinate Courts established under the Subordinate Courts Proclamation, but, subject to the provisions of any other law, does not include any African Court or African Court of Appeal established under any law relating to such courts;

“State<sup>1</sup> Counsel” means any professional assistant appointed to assist the Attorney-General;

“High Court” means the Chief Justice or any Judge of the High Court;

“legal practitioner” means any person entitled or admitted to practise as an advocate, attorney, notary public or conveyancer in terms of this Proclamation;

“Registrar” means the Registrar of the High Court and includes an Assistant Registrar;

“Roll” means the roll kept by the Registrar in terms of section 11.

**Saving of Rights and Non-application to Law Officers.**

2. (1) Nothing in this Proclamation contained with reference to the admission of advocates, attorneys, notaries public or conveyancers shall apply to any person whose name, at the commencement of this Proclamation, appears on the roll kept by the Registrar in terms of Rule 9 of the Legal Practitioners Rules then in force, unless such person thereafter withdraws his name from the roll at his own request or has been struck off the roll in terms of this Proclamation.

(2) Notwithstanding anything in this Proclamation contained each of the following persons shall be entitled, in connection with the duties of his office, to

(1) Amended by L.N. 84/1966 and L.N. 99/1966

(2) Deleted by H.M.C. Order 1/1963

exercise any of the functions of a legal practitioner, that is to say the Attorney-General, the Deputy Attorney-General, any State Counsel and any person delegated by the Attorney-General to appear on behalf of the State in criminal matters in the Courts of Botswana<sup>1</sup>.

#### **Admission of Legal Practitioners.**

3. Any fit and proper person who possesses the qualifications hereinafter prescribed may apply to the High Court upon written petition to be admitted and enrolled as an advocate, attorney, notary public or conveyancer, as the case may be.

#### **Proof of Qualifications.**

4. Every person who applies to be admitted and enrolled as a legal practitioner shall produce to the satisfaction of the High Court proof of the possession by him of the qualifications prescribed by this Proclamation in respect of such admission and enrolment.

#### **Service on the Attorney-General.**

5. A copy of every petition for admission as a legal practitioner, together with copies of supporting affidavits and certificates, shall be served upon the Attorney-General not less than ten days before the hearing of such petition and such service may be effected personally or by registered post, or by lodging a copy with the Registrar:

Provided that if the High Court is satisfied that the application is urgent it may, in cases of application for admission and enrolment as an advocate or as an attorney, dispense with such service.

#### **Oaths to be Taken and Fees Paid.**

6. No person shall be enrolled as a legal practitioner until he shall have taken before the Registrar the oath or affirmation of<sup>2</sup> office set out in the Schedule hereto and shall have paid the fees prescribed by section 11.

Provided that a person referred to in paragraphs (a) or (b) of section 14A shall not be required to take the oath of allegiance.<sup>3</sup>

#### **Qualifications for Admission as an Advocate.**

7. The following persons shall be qualified to be admitted and to practise as advocates —

(1) Amended by Law 19/1965 and L.N. 84/1966

(2) Amended by Law 14/1962

(3) Amended by Law 19/1965

## C.42

- (a) any Botswana Citizen or<sup>1</sup> British subject who shall have been admitted as Barrister in England, Northern Ireland, the Republic of Ireland or as an advocate in the Court of Session of Scotland, and who at the date of such petition is still entitled to practise as such Barrister in England, Northern Ireland or the Republic of Ireland, or as an advocate in Scotland; or
- (b) any Botswana Citizen or<sup>1</sup> British subject who shall have been admitted to practise as an advocate in any Division of the Supreme Court of South Africa or in the High Court of Southern Rhodesia, and who at the date of such petition remains enrolled as an advocate of such Supreme Court or High Court, and has practised exclusively as an advocate of such Court and not in partnership with any attorney of such Court :

Provided that no such person shall be admitted to practise as an advocate of the Courts of Botswana<sup>2</sup> or, after having been so admitted, shall continue to practise as aforesaid, who shall either himself be carrying on, directly or indirectly, the business of an attorney, or be directly or indirectly interested in the business of any attorney or firm of attorneys in any Province of the Republic of South Africa or in Southern Rhodesia.

### **Qualifications for Admission of an Attorney.**

8. The following persons shall be qualified to be admitted and subject to the provisions of section 11A<sup>3</sup> to practise as attorneys —

- (a) any Botswana Citizen or<sup>1</sup> British subject who, being an attorney or solicitor of any of the Courts of Record in London, Belfast or Dublin, or being a Writer to the Signet or a solicitor or law agent admitted to practise in the Court of Session of Scotland, is not under any order of suspension in any such Courts respectively ;
- (b) any Botswana Citizen or<sup>1</sup> British subject who has been admitted to practise as an attorney or solicitor in any Division of the Supreme Court of South Africa or in the High Court of Southern Rhodesia, and who at the date of such petition remains enrolled as an attorney of such Court and is not under any order of suspension in any such Court ;
- (c) any Botswana Citizen or<sup>1</sup> British subject entitled under this Proclamation to be admitted as an advocate of the Courts of Botswana<sup>2</sup>, provided that he satisfies the High Court that he has not practised as an advocate for a period of three months immediately preceding his application for admission as an attorney under this Proclamation.

### **Rights of Advocates and Attorneys**

9. Advocates and attorneys whether entitled to practise as such at the commencement of this Proclamation, or admitted and enrolled in terms of this Proclamation,

(1) Amended by L.N. 84/1966 and 99/1966

(2) Amended by L.N. 84/1966

(3) Amended by Law 14/1962

shall subject to the provisions of section 11A<sup>1</sup> have a right of audience in the Courts of Botswana:<sup>2</sup>

Provided that no advocate shall have a right of audience in any such Court unless he is acting on the instructions of a person entitled to practise as an attorney.<sup>3</sup>

#### **Qualifications of Notaries Public and Conveyancers.**

10. There shall be qualified to be admitted and to practise —

- (a) as a notary public any Botswana Citizen or<sup>4</sup> British subject who has been admitted as an attorney of the Courts of Botswana<sup>2</sup>, whether before or after the date of commencement of this Proclamation, and who has also been admitted to practise as a notary public by any Division of the Supreme Court of South Africa or by the High Court of Southern Rhodesia, and who at the date of such petition remains enrolled as a notary public in such Court and is not under any order of suspension in any such Court.
- (b) as a conveyancer any Botswana Citizen or<sup>4</sup> British subject who has been admitted as an attorney of the Courts of Botswana<sup>2</sup>, whether before or after the date of commencement of this Proclamation, and who has also been admitted to practise as a conveyancer by any Division of the Supreme Court of South Africa or by the High Court of Southern Rhodesia, and who at the date of such petition remains enrolled as a conveyancer in such Court and is not under any order of suspension of any such Court.

#### **Records to be Kept by Registrar.**

11. (1) The Registrar shall keep a roll of legal practitioners entitled or admitted to practise in terms of this Proclamation and every person so admitted shall pay a fee of R10 for a certificate of admission and enrolment under the hand of the Registrar in the form in the Schedule hereto.

(2) Such roll shall be in the form of separate alphabetical lists recording the names of advocates, attorneys, notaries public and conveyancers respectively, entitled to practise by reason of section 2, or admitted to practise under this Proclamation, with the dates of such admission and the relevant addresses.

(3) Whenever the High Court makes an order striking off the roll or suspending from practise any legal practitioner, or whenever any legal practitioner applies to have his name removed from the roll or the Registrar is required to remove the name of an attorney from the roll under section 11A (5),<sup>5</sup> the Registrar shall forthwith enter on the roll kept by him, a note or minute of such order or removal opposite the name of the legal practitioner concerned.

(1) Amended by Law 14/1962

(2) Amended by L.N. 84/1966

(3) Amended by Law 19/1965

(4) Amended by L.N. 84/1966 and 99/1966

(5) Amended by Law 19/1965

#### C.44

##### **"Practising Certificates for Attorneys."**<sup>1</sup>

11A. (1) No attorney shall be entitled to practice as such in the Courts of Botswana<sup>2</sup> in any year unless he is in possession of a practising certificate for that year issued under this section:

Provided that this sub-section shall not apply during the month of January in any year in respect of any attorney who has held a practising certificate for the immediately preceding year.

(2) The Registrar shall issue a practising certificate for any year in such form as the Chief Justice may prescribe to any person admitted and enrolled as an attorney under this Proclamation or any previous law who applies for the same in accordance with the provisions of sub section (3) and pays the fee prescribed in sub section (4).

(3) Every attorney applying for a practising certificate under this section shall deliver to the Registrar a written application in such form as the Chief Justice may prescribe stating the name and place or places of business of the applicant and the date of his admission and enrolment as an attorney and signed by him or his duly authorised agent.

(4) The fee to be paid to the Registrar in respect of every practising certificate issued by him shall be two rand in the case of an attorney ordinarily resident in Botswana<sup>2</sup> and fifty rand in the case of any other attorney:

Provided that where an attorney ordinarily resident outside Botswana<sup>2</sup> is the partner, employer or employee of an attorney who is in possession of a practising certificate for any year the fee payable by such attorney for a practising certificate for that year shall be two rand:

Further provided that the fees referred to in this sub section shall be reduced by one-half in the case of certificates issued for the year 1962.

(5) If any attorney fails to obtain a practising certificate under this section for any year, the Registrar shall notify such attorney of the provisions of this section by means of a registered letter posted to him at his last known address; and if within 90 days of the posting of such letter the attorney has not obtained such certificate the Registrar shall remove the name of such attorney from the roll.<sup>3</sup>

##### **Removal and Suspension from Roll.**

12. (1) The High Court may, on reasonable cause shown, order the suspension or removal of any person from the roll.

(2) The Registrar shall refer any complaint of professional misconduct by any advocate to the Attorney-General, who shall investigate the complaint and take such action thereon as he shall deem fit.

(1) Inserted by Law 14/1962

(2) Amended by L.N. 84/1966

(3) Inserted by Law 19/1965



(3) (a) The Registrar shall refer any complaint of professional misconduct by any legal practitioner, other than an advocate, to the Attorney-General, who may take such action thereon as he shall deem fit, or may appoint a Committee consisting of State<sup>1</sup> Counsel, as chairman, and two attorneys appointed by him practising in Lesotho or Swaziland:

Provided that if for any reason State<sup>1</sup> Counsel is not available the Committee shall consist of three attorneys practising in Lesotho or Swaziland appointed by the Attorney-General, the senior of whom shall be chairman.

(b) The Committee shall investigate any complaint referred to it by the Attorney-General under paragraph (a) of this sub section and report thereon to the Attorney-General. The Attorney-General shall take such action on the report as he shall deem fit.

(4) Every application to suspend or remove from the roll shall be made by the Attorney-General by way of motion to the High Court, supported by affidavit or affidavits of the facts on which the application is based:

Provided that the High Court may order that any question of fact shall be tried by pleadings or otherwise as the Court shall deem fit.

(5) No costs may be awarded on such application against the Attorney-General unless the High Court is satisfied that he has acted *mala fide* in bringing the application.

(6) The Attorney-General and the members of any committee shall not be subject or liable to any action or proceedings for damages on the ground of defamation in the *bona fide* execution of their duties and the taking of any steps or the institution of any proceedings under or purporting to be under the provisions of this section.

(7) The members of the committee appointed under sub section (3) of this section shall be paid from the general revenues of Botswana<sup>1</sup> such reasonable expenses as may be fixed by the Chief Justice.

### Offences.

13. (1) No person, other than an advocate, attorney, notary or conveyancer admitted and enrolled, and in the case of an attorney entitled,<sup>2</sup> to practise in the Courts of Botswana<sup>1</sup>, shall practise as such within Botswana<sup>1</sup> or in any manner hold himself out as or pretend to be, or make use of any words or any name, title or addition or description implying or tending to the belief that he is an advocate, attorney, notary or conveyancer or is recognised by law as such.

(2) No person shall orally or by means of any written or printed matter or

#### C.46

in any manner whatsoever, directly or indirectly, either for himself or for any other person, canvass, advertise or tout for, or make known his preparedness or that of such other person to undertake, any work, whether for or without remuneration, in connection with the administration or liquidation or distribution of the estate of any deceased or insolvent person, lunatic, or person under other disability.

(3) No advocate, attorney, notary or conveyancer who shall have been struck off the rolls or suspended from practice shall while he is struck off or suspended continue to practise as an advocate, attorney, notary or conveyancer directly or indirectly by himself or in partnership or association with any other person.

(4) No attorney, notary or conveyancer shall employ in any capacity whatsoever any person who shall have been struck off the rolls (except in pursuance of section 11A(5))<sup>1</sup> or suspended from practice while such person is struck off or suspended.

(5) No attorney, notary or conveyancer shall make over, share or divide with any person other than a practising attorney, notary or conveyancer in Botswana<sup>2</sup>; or a legal practitioner outside Botswana<sup>2</sup>, either by way of partnership, commission or allowance or in any other manner, any portion whatsoever of his professional fees.

(6) Any person contravening any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200 for each offence :

Provided that it shall not be deemed to be a contravention of sub section (2) if —

- (a) any board of executors, or trust company (not being a private company within the meaning of the law relating to Companies)
  - (i) has in its name or title words indicating that its objects or functions include work in connection with the administration, liquidation or distribution of any estate mentioned in sub section (2) ; or
  - (ii) on signboards, nameplates, or notices exhibited on the premises in which it carries on business, on its stationery, or on its usual annual almanacs or in any advertisement in the public press, or in its annual reports or any report of the proceedings at an annual general meeting makes known by a simple statement to that effect that its objects or functions include any such work ;
- (b) any person in reply to a direct enquiry voluntarily made of him by someone else makes known the preparedness of himself or some other person to perform any such work ;

(1) Amended by Law 19/1965

(2) Amended by L.N. 84/1966

(c) any shareholder or employee of a board of executors or trust company described in sub-paragraph (a) above canvasses another shareholder or employee of the same board of executors or trust company on behalf of such board or company.

(d) any attorney, notary or conveyancer or any commercial banking institution or any such board of executors or trust company indicates in any public notice required by law in connection with the liquidation or administration of any estate, that he or it does such work.

(7) Any legal practitioner contravening sub section (2), (4) or (5) shall be guilty of unprofessional conduct and shall, in addition to the liability imposed by sub section (6), be liable to be struck of the roll or suspended from practice.

(8) Save as provided in sub section (9), any person, not being a practising advocate, attorney, notary or conveyancer, who for or in expectation of any fee, gain or reward, direct or indirect, to himself or to any other person, draws or prepares or causes to be drawn or prepared any of the following documents:

- (a) Any contract, deed or instrument relating to land or immovable property or to any right in or to land or immovable property, other than conditions of sale or brokers' notes;
- (b) any will or other testamentary instrument;
- (c) any memorandum or articles of association or prospectus of any company;
- (d) any contract, deed or instrument relating to the creation or dissolution of any partnership or any variation of the terms thereof;
- (e) any instrument or document relating to or required or intended for use in any action, suit or other proceeding in a Court of civil jurisdiction within Botswana<sup>1</sup>;

shall be guilty of an offence and liable on conviction in respect of each offence to a fine not exceeding R200 and in default of payment thereof to imprisonment not exceeding three months:

Provided that the words "fee, gain or reward direct or indirect" shall not include or apply to —

- (i) the salary or emoluments of an employee if no fee, gain or reward is sought or obtained by his employer from the person on whose behalf the document was drawn or prepared;
- (ii) any commission or other remuneration to which any person is or may be entitled either by law or otherwise for services in his capacity as executor, administrator, trustee, curator, tutor or guardian by virtue of his appointment as such by any Court of law or under the provisions of any

(1) Amended by L.N. 84/1966

## C.48

will or other testamentary instrument, or as agent for any person holding such appointment.

(9) The provisions of sub section (8) shall not apply to —

- (a) any person in the employ of a practising attorney, notary or conveyancer drawing or preparing or causing to be drawn or prepared any of the aforesaid documents in the course of his employment and on behalf of his employer;
- (b) any person in the service of the Government of Botswana<sup>1</sup> drawing or preparing or causing to be prepared any of the aforesaid documents in the course of his duty;
- (c) any trustee under the laws relating to insolvency or any executor, administrator or curator or any liquidator of a company drawing or preparing any such document in the course of his statutory duties and receiving such fees as may be allowed by law;
- (d) any practising advocate in so far as he would be entitled but for the passing of this Proclamation to draw or prepare any of the aforesaid documents in the ordinary course of his profession.

### Rules.

14. The Chief Justice may make rules generally for carrying the purposes or provisions of this Proclamation into effect.

### Exemption of Aliens.<sup>2</sup>

14A. The provisions of sections 7, 8 and 10 shall have effect in relation to any person who, although not a Botswana Citizen or<sup>3</sup> British subject —

- (a) is domiciled in Botswana in terms of section 3 of the Immigration Law, 1966 (No. 19 of 1966);
- (b) is exempted in writing by the Minister for the time being responsible for immigration from the nationality requirement mentioned in those sections; or
- (c) is enrolled as an advocate, attorney, notary public or conveyancer under this Proclamation (or in the manner mentioned in section 2);

as if he was a Botswana Citizen or<sup>3</sup> British subject.

### Short Title.

15. This Proclamation may be cited as the Legal Practitioners Proclamation.

(1) Amended by L N 84/1966

(2) Amended by Law 19/1965

(3) Amended by L N 84/1966 and 99/1966

SCHEDULE

OATH OR AFFIRMATION OF OFFICE<sup>1</sup>

(In the Courts of Botswana)

I.....do swear (or do  
solemnly affirm) that I will truly and honestly demean myself in the practice of an

.....according to the best of my knowledge and  
ability.

(In the case of an Oath here add)

So help me God.

.....  
Sworn (or Affirmed) before me.....  
at.....this.....day of....., 19.....

.....  
*Registrar.*

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(1) Amended by Law 14/1962 and L.N. 84/1966

C.50

CERTIFICATE OF ADMISSION AND ENROLMENT

(In the Courts of Botswana<sup>1</sup>)

No.....

(R10 stamp)

This is to certify that.....

.....  
of.....has been registered as.....and is  
entitled to practise as such in the Court of Appeal, High Court and Subordinate  
Courts of Botswana<sup>1</sup>.

.....  
*Registrar.*

Lobatsi, Botswana<sup>1</sup>.

(Date) .....

.....  
(1) Amended by L.N. 84/1966

**THE LIQUOR PROCLAMATION, 1960**

(No. 69 of 1960)

(Promulgated 23rd December, 1960)

as amended by

**THE LIQUOR (AMENDMENT) LAW, 1961**

(No. 10 of 1961)

(Promulgated 24th October, 1961)

and

**THE LIQUOR (FURTHER AMENDMENT) LAW, 1961**

(No. 18 of 1961)

(Promulgated 24th October, 1961)

and

**THE LIQUOR (AMENDMENT) LAW, 1962**

(No. 8 of 1962)

(Promulgated 29th May, 1962 and 21st October, 1963)

and

**THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964**

(No. 28 of 1964)

(Promulgated 19th November, 1964)

and

**THE LIQUOR (AMENDMENT) LAW, 1965**

(No. 11 of 1965)

(Promulgated 15th October, 1965)

and

**THE LIQUOR (AMENDMENT) LAW, 1966**

(No. 28 of 1966)

(Promulgated 16th September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Commencement 30th September, 1966)

and

C.52

**THE LIQUOR (FURTHER AMENDMENT) ACT, 1966**

(No. 11 of 1966)

(Promulgated 21st December, 1966)

Reprinted by direction of the Attorney-General in terms of Section 3 of the  
Amendments Incorporation Law. 1961. on 3rd February 1967.



BOTSWANA  
No. 69 of 1960  
(Promulgated 23rd December, 1960)

**PROCLAMATION**

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Liquor Proclamation, 1960

ARRANGEMENT OF SECTIONS

**PART I**

PRELIMINARY

*Section.*

1. Short Title and Commencement
2. Interpretation
- 2A. Appointment of Licensing Authority<sup>1</sup>
3. Non-application of Proclamation

**PART II**

TYPES OF LICENCES

4. General
5. Hotel Liquor Licence
6. Club Liquor Licence
7. Bottle Store Licence
8. Temporary Liquor Licence

**PART III**

ISSUE, ETC., OF LICENCES

9. Issue, Renewal, Transfer and Removal of Licences
10. Restriction on the Issue of Licences
11. Licensing Courts to be Held
12. Objections and Reports
13. Procedure at Sitting of Licensing Court
14. Record and Recommendation of Licensing Court

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(1) Inserted by Law 11/1965

**C.54**

15. Provisional Grant of Licence
16. Extension of Permitted Hours
17. Continuation of Licence in Event of Death, etc.
18. Covering Orders

**PART IV**  
**DEALINGS WITH LIQUOR**

19. Selling Liquor Except Under Authority of a Licence
20. Sale, etc., of Liquor to be During Permitted Hours
21. Importation, Exportation and Manufacture of Liquor
22. Storage of Liquor in Wholesale Quantities
23. Delivery of Liquor
24. Removal of Spirits Between Districts
25. Consumption of Liquor Purchased in Sealed Containers
26. Removal of Liquor from Licensed Premises in Evasion of Proclamation
27. Intemperates
28. Supply of Liquor to Disqualified Persons or Intemperates
29. Restriction on Sale, etc., of Liquor to Children or Young Persons
30. Adulterating Liquor, etc.

**PART V**  
**CONDUCT OF LICENSED PREMISES**

31. Disqualified Persons and Intemperates not to be Employed in Bottle Stores or Bars
32. Licensee not to Permit Drunkenness, etc.
33. Power to Exclude Drunkards, etc., from Licensed Premises
34. Permitting licensed Premises to be a Brothel or Resort of Prostitutes
35. Observance of Conditions of Licence
36. Particulars to be Affixed to Premises, etc.
37. Hotel Registers
38. Hotel Keeper to Provide Meals and Accommodation and to Keep Bar Open
39. Prohibition of Carrying on any Other Business on Licensed Premises
40. Sale of Tobacco, etc.
41. Prohibition of Making Structural Alterations to Licensed Premises Without the Consent of the Licensing Authority
42. Closing of Licensed Premises on Serious Breach of the Peace or Danger to the Public Health

**PART VI****SPECIAL PROVISIONS RELATING TO AFRICANS**

- 43. Limitation of Application of Part
- 44. Supply of Intoxicating Liquor to Africans
- 45. Supply of Liquor to Africans as Messengers
- 46. Letters of Exemption
- 47. Endorsement of Letters of Exemption by Other Chiefs
- 48. President's<sup>1</sup> Letter of Exemption

**PART VII****KAFFIR BEER**

- 49. Manufacturing, etc., Kaffir Beer on Private Land
- 50. Beer Hall Regulations

**PART VIII****SUPPLEMENTARY**

- 51. Issue of Permits
- 52. Licensee's Duty in Regard to Limited Letters of Exemption and Permits
- 53. Production of Letter of Exemption or Permit
- 54. Loss, etc., of Licence, Permit or Letter of Exemption
- 55. False Statements
- 56. Forging Licences, etc.
- 57. Departure of Guest from Licensed Premises
- 58. Meaning of "Possession"
- 59. Evidence of Sale or Consumption of Liquor
- 60. Criminal Responsibility of Employer and Employee
- 61. Cancellation of Permit or Letter of Exemption by Court
- 62. Forfeiture of Licence and Disqualification
- 63. Liquor and Vessels may be Forfeited to the State<sup>1</sup>
- 64. Temporary Licence Pending Appeal
- 65. Power to Prescribe Forms, etc.
- 66. Exercise of Discretionary Powers Under this Proclamation
- 67. Jurisdiction
- 68. Saving
- 69. Repeal

First Schedule (Section 2) : Fees

Second Schedule (Section 69) : Laws Repealed

(1) Amended by L.N. 84/1966

**PART I**  
**PRELIMINARY**

**Short Title and Commencement.**

1. (1) This Proclamation may be cited as the Liquor Proclamation, 1960, and, subject to the provisions of sub sections (2) and (3) hereof, shall come into operation on publication in the *Gazette*.

(2) Section *twenty-two* of this Proclamation shall come into operation on the 1st January, 1962.

(3) The President<sup>1</sup>, by notice in the *Gazette*, may provide that the provisions of this Proclamation concerning applications for hotel liquor licences, club liquor licences and bottle store licences, the consideration of such applications and the issue of such licences shall, in the case of licences for the year 1961, be read and construed with such adaptations or modifications as may appear to the President<sup>1</sup> to be necessary or expedient for enabling effect to be given to these provisions.

**Interpretation.**

2. In this Proclamation, unless the context otherwise requires —

“appropriate fee” in relation to any matter means the fee specified in respect of such matter in the First Schedule to this Proclamation;

“bar” in relation to any licensed premises means any part of these premises in which liquor is consumed and —

(a) in which liquor is stored or exposed for sale; or

(b) in which there is an open drinking counter from which any part of the premises in which liquor is stored or exposed for sale is visible;

“bulk store-room” in relation to any licensed premises means a room on these premises used, in accordance with the provisions of sub section (1) of section *twenty-two*, for the storage of liquor in wholesale quantities.

“covering order” means an authority to sell intoxicating liquor granted under the provisions of section *eighteen* of this Proclamation;

“denatured spirits” means intoxicating liquor which by the addition of some substance has been rendered unpotable;

“disqualified person” means a person to whom, under the provisions of sub section (2) of section *sixty-two*, the possession of liquor except under permit is forbidden;

“duplicate original” in relation to a letter of exemption or permit, means an exact copy of the original letter of exemption or permit, bearing the original signature or signatures of a person or persons required to sign the original;

“intemperate” means a person to whom, under the provisions of section *twenty-seven*, the possession of liquor except under permit is forbidden;

“kaffir beer” means —

- (a) beer brewed from sorghum-meal or a mixture of sorghum-meal and mealie-meal by the fermentation of malted sorghum, but excluding the liquors commonly known as “ila”, “kabidikamo” or “banyana”, or any beer brewed as described to which sugar, honey or syrup has been added or which is mixed with or fortified or adulterated by any other liquor or substance, or any other of the liquors commonly known as “khadi”; or
- (b) any other liquor which the President<sup>1</sup> may by notice in the *Gazette* declare to be kaffir beer for the purposes of this Proclamation;

“off-sales department” in relation to any premises licensed under an hotel liquor licence means a room on those premises used, in accordance with the provisions of sub section (2) of section *five*, for the sale of liquor for consumption off the licensed premises;

“intoxicating liquor” or “liquor” means spirits, wine, ale, beer, porter, cider, perry, or any other liquor of an intoxicating nature; but does not include kaffir beer;

“letter of exemption” means a letter of exemption given under the provisions of section *forty-six*;

“licence” means a licence issued under the provisions of this Proclamation; but does not include a provisional licence;

“licensed premises” means any premises in respect of which a licence is in force;

“licensee” means the holder of a licence and, where applicable, includes any person referred to in the second column in sub section (1) of section *seventeen*;

“licensing authority” means the licensing authority appointed in terms of section 2A;<sup>2</sup>

“licensing officer” in relation to any district means any administrative officer for the time being present at the administrative headquarters of the district;

“meal” means substantial refreshment to which the sale of intoxicating liquor is ancillary;

“Minister” means the Minister for the time being responsible for commerce;<sup>3</sup>

“permit” means a permit to purchase and be in possession of liquor issued under the provisions of section *fifty-one*;

“permitted hours” in relation to the supply of intoxicating liquor to any person in any part of licensed premises means those hours of the day or night during

(1) Amended by L.N. 84/1966

(2) Amended by Law 11/1965

(3) Inserted by Law 11/1965

## C.58

which intoxicating liquor may lawfully be supplied to that person in that part of those premises;

“prescribed” means prescribed by notice under section *sixty-five*;

“private land” means land title to which is registered in the Deeds Registry for Botswana;<sup>1</sup>

“provisional licence” means a licence of which a provisional grant has been made under the provisions of section *fifteen* of this Proclamation but has not been declared final under the said section;

“President’s<sup>1</sup> letter of exemption” means a letter of exemption issued under section *forty-eight*;

“sealed” in relation to a vessel or container means hermetically sealed or closed with a plug, stopper or cap and so secured that the vessel or container cannot be opened without the destruction of that plug, stopper or cap or of some other substance;

“selling” includes bartering; and

“spirits” means distilled liquors of any description and all mixtures, compounds and preparations made with such liquors, except fortified wines.

### **Appointment of Licensing Authority<sup>2</sup>**

2A. (1) The Minister, by notice in the *Gazette*, shall appoint a licensing authority for the purposes of this Proclamation, and such appointment may be of a named person, of a person *ex officio* or of a named body of persons.

(2) No person or body of persons shall be qualified to hold an appointment in terms of this section if such person, or any member of any such body, as the case may be, holds or applies for any licence (including a provisional licence) issued under this Proclamation.

### **Non-application of Proclamation.**

3. (1) Nothing in this Proclamation shall apply to —

(a) the sale or administration for purely medical purposes of any *bona fide* medicine containing intoxicating liquor;

(b) the sale of any spirituous or distilled perfume or perfumery, any methylated or otherwise denatured spirits, or any medicated wine;

(c) the sale of intoxicating liquor on any aircraft in flight over Botswana<sup>1</sup> in the course of a normal passenger service;

(d) on payment of the appropriate fee, to the sale of intoxicating liquor by a

(1) Amended by L.N. 84/1966

(2) Inserted by Law 11/1965

Railway Administration on any railway train in transit through Botswana<sup>1</sup> to any *bona fide* passenger thereon;

- (e) the sale of intoxicating liquor within the precincts of the National Assembly in accordance with such conditions as may be approved by the Speaker.<sup>2</sup>

(2) The provisions of paragraph (a) of sub section (1) of section *nineteen* shall not apply —

- (a) to the sale of intoxicating liquor by any person acting under the order of a court or selling any liquor forfeited to the State<sup>1</sup> under this Proclamation or any other law;
- (b) to the sale by an executor, administrator, or trustee in insolvency, of any liquor which forms part of the estate of a deceased or insolvent person other than a licensee;
- (c) to the sale of intoxicating liquor to the holder of any licence issued under this Proclamation by the holder of a Wholesale Distributor Licence issued under the Trading Proclamation (Chapter 108 of the Laws of Botswana<sup>1</sup>) or any law hereafter substituted for the same;
- (d) to the sale of intoxicating liquor, from any canteen approved for such purposes by the President<sup>1</sup>, to members of the Botswana<sup>1</sup> Police or any of Her Majesty's armed forces.<sup>3</sup>

## PART II

### TYPES OF LICENCES

#### General.

4. (1) The following licences may be issued under this Proclamation:—

- (a) Hotel Liquor Licences;
- (b) Club Liquor Licences;
- (c) Bottle Store Licences;
- (d) Temporary Liquor Licences.

(2) Subject to the provisions of this Proclamation, all licences other than temporary licences shall continue in force until the thirty-first day of December next following the date of issue thereof.

(1) Amended by L.N. 84/1966

(2) Inserted by Law 28/1966

(3) Amended by Law 18/1961, 8/1962 and 28/1966

## C.60

### Hotel Liquor Licence.

5. (1) Subject to the provisions of this Proclamation, an hotel liquor licence shall authorise the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers —

- (a) in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and<sup>1</sup>
- (b) elsewhere than in or at a bar, between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day; and
- (c) at any hour of the day or night, to any person taking a meal at the premises if the liquor is for consumption at the meal, and to any person lodging in the premises having registered as a guest in terms of section *thirty-seven*.

(2) An hotel liquor licence shall also authorise the sale, in a room on the licensed premises reserved exclusively for such purpose and separated from any adjacent part of the licensed premises by a substantial wall or partition containing no opening other than a substantial door capable of being securely locked, for consumption otherwise than in public on the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day.

### Club Liquor Licence.

6. Subject to the provisions of this Proclamation, a club liquor licence shall authorise the sale, on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers to members of the club of which the licensee is nominee —

- (a) between the hours of nine o'clock in the morning and eleven o'clock in the evening on any day other than a Sunday, Good Friday or Christmas Day; and
- (b) between the hours of eleven o'clock in the morning and ten o'clock in the evening on any Sunday or Christmas Day.

### Bottle Store Licence.

7. Subject to the provisions of this Proclamation, a bottle store licence shall

(1) Amended by Act 11/1966



authorise the sale, on the premises specified in the licence, for consumption off the premises, of intoxicating liquor in casks, sealed bottles, or other sealed vessels, between the hours of ten o'clock in the morning and seven o'clock in the evening, on any day other than a Sunday, Good Friday or Christmas Day.

#### **Temporary Liquor Licence.**

8. Subject to the provisions of this Proclamation, a temporary licence shall authorise the sale at any place of public assembly, on premises specified in the licence, of intoxicating liquor in unsealed vessels or containers for consumption on the premises, for a period not exceeding three days during which the assembly continues or for any less period specified in the licence, subject to such restrictions and conditions as to the hours during which intoxicating liquor may be supplied or otherwise as may be inserted in the licence.

### **PART III**

#### **ISSUE, ETC., OF LICENCES**

##### **Issue, Renewal, Transfer and Removal of Licences.**

9. (1) Every application for the issue of a licence under this Proclamation shall be made in the prescribed form to a licensing officer in the district to which the application relates, and every such application except an application for a temporary liquor licence shall be referred by the licensing officer to the licensing authority.

(2) No application shall be referred to the<sup>1</sup> licensing authority in terms of the preceding sub section until evidence for and against the application has been recorded by the licensing officer at a licensing court held in terms of section *eleven*, the licensing authority has received the record and recommendation referred to in section *fourteen*, and the period referred to in sub section (2) of that section has expired.

(3) Except in so far as express provision to the contrary is made in this Proclamation, or the First Schedule, an application for the renewal of a licence shall be treated in all respects as an application for the issue of a new licence, an application for the transfer of a licence to a new licensee shall be treated in all respects as an application for the issue of a new licence to the transferee, and an application for the removal of a licence to new premises to be occupied by the same licensee shall be treated in all respects as an application by that licensee for the issue of a new licence in respect of the new premises.

(4) Where the<sup>1</sup> licensing authority consents to an application referred to

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(1) Amended by Law 11/1965

## C.62

him in terms of sub section (1) of this section or where a licensing officer consents to an application for a temporary liquor licence, the licence applied for shall be issued by the licensing officer on payment of the appropriate fee. Where such consent is given to the transfer of the licence to a new licensee or to the removal of a licence to new premises during the period of validity of the licence, the licensing officer on payment of the appropriate fee shall endorse the existing licence for use by the new licensee or for use at the new premises, as the case may be, for the remaining period of validity thereof.

(5) A person aggrieved by the refusal of the<sup>1</sup> licensing authority or licensing officer to consent to the issue of a licence under this Proclamation, or by any conditions he proposes to attach to the issue thereof, may, on payment of the appropriate fee, appeal to the President<sup>2</sup> whose decision shall be final.

### Restriction on the Issue of Licences.

10. (1) No licence shall be issued to any person who is under the age of twenty-one years.

(2) Except with the consent of the President<sup>2</sup>, no licence shall be issued to —

- (a) any person who does not reside in Botswana<sup>2</sup>;
- (b) any person whose licence has been forfeited, until after the expiration of five years from the date thereof;
- (c) any person who has been convicted of an offence under section *nineteen*, section *twenty-eight* or section *forty-four* of this Proclamation until after the expiration of five years from the date of the conviction; or
- (d) any person who has at any time been sentenced to imprisonment without the option of a fine for a term exceeding six months.

(3) No licence shall be issued to any company, society, partnership, or other association of persons:

Provided that nothing in this sub section shall be deemed to prevent the issue of a licence to the nominee of a company, society, partnership, or association, and where such a licensee ceases to be the nominee of the company, society, partnership, or association concerned, a new nominee of that company, society, partnership, or association may take such steps as may be necessary, under the provisions of this Proclamation, to have the licence transferred to himself.

(4) No club liquor licence shall be issued except to the nominee of a *bona fide* club which is managed by a committee responsible to the members assembled in general meeting and in which, by virtue of the Constitution and Rules thereof —

- (i) the committee holds regular meetings of which proper minutes are kept;

(1) Amended by Law 11/1965

(2) Amended by L.N. 84/1966

- (ii) only members of the club (including *bona fide* reciprocity members) are permitted to pay for accommodation or refreshment therein ;
  - (iii) no ordinary member of the club is elected less than fourteen days after nomination, or without his name having been screened on the club premises for at least seven days ;
  - (iv) the election of members is either by the committee or by all members of the club : Provided that the Rules of the club may disqualify from voting any member in arrear with any payments due to the club ;
  - (v) no person residing within ten miles of the club-house is eligible as an honorary or temporary member of the club save when such eligibility is granted by reason of that person holding some public office or being a *bona fide* candidate for membership or when that person is allowed the privilege of membership while engaged in any match or competition ;
  - (vi) a register of members and proper accounts are kept ;
  - (vii) the annual membership subscription (save in the case of *bona fide* country members) is at least R2 ;
  - (viii) the club consists of at least twenty members ; and
  - (ix) no profits from the sale of liquor by the club accrue to any individual save under some written agreement approved by the licensing authority.
- (5) No temporary liquor licence shall be issued to any person other than the holder of an hotel liquor licence.

#### **Licensing Courts to be Held.**

11. (1) Licensing courts for the hearing of applications in terms of sub section (2) of section *nine* shall be held by licensing officers during the first two weeks of the months of May and November, on such dates and at such places as may be notified by the Minister<sup>1</sup> by notice in the *Gazette*.

(2) Where, in his opinion, special circumstances exist, the Minister<sup>1</sup>, by notice in the *Gazette*, may direct that a licensing officer shall hold a special sitting of a licensing court on such date and at such place as he may specify.

(3) No application shall be heard by such a court unless —

- (a) in the case of a sitting in the first two weeks of May, the application is lodged on or before the fifteenth of March ;
- (b) in the case of a sitting in the first two weeks of November, the application is lodged on or before the fifteenth of September ;
- (c) in the case of a special sitting, the application is lodged at least six weeks before the date of the sitting.

(1) Amended by L.N. 55/1965, 84/1966 and 94/1966

## C.64

(4) Every *Gazette* notice issued in pursuance of sub section (1) or (2) hereof shall give details of all applications which are to be heard by the court at the sitting in question.

### Objections and Reports.

12. (1) Any person who intends to oppose any application to be heard by a licensing court shall give notice in writing to the applicant and to the licensing officer of his intention, specifying the general grounds of his objection, at least fourteen days before the date of hearing of the application.

(2) At least fourteen days before the date of sitting of a licensing court —

- (a) the Commissioner of Police or a member of the Botswana<sup>1</sup> Police deputed by him for such purpose shall deposit at the licensing officer's office a written report on each application to be heard at the sitting, containing —
  - (i) a statement as to whether or not it appears that the issue of the licence would be contrary to the provisions of section *ten*, or to the public interest generally;
  - (ii) a statement of any facts known to the Police which are inconsistent with any information given by the applicant in making the application;
  - (iii) in the case of an application for a new licence or for the transfer of a licence to a new licensee a statement as to whether the applicant appears to be a fit and proper person to have the licence applied for and is known to be of good character and repute, and a statement as to what convictions (if any) have been recorded against the applicant;
  - (iv) in the case of an application for a new licence or for the removal of a licence to new premises a statement as to whether it appears that the locality or site of the proposed premises is suitable for the carrying on of the licensed business having regard to any law or regulations in force relating to town planning or to the siting or zoning of trades or businesses and otherwise; and a statement as to whether or not it appears that the value of the surrounding premises or property would be depreciated by the carrying on of the business or that the carrying on of the business would be a nuisance to persons residing in the neighbourhood; and
  - (v) in the case of an application for the renewal of a licence a statement as to the manner in which the licensed premises have been conducted during the current period of the licence, and the character of the persons who have frequented the premises during that period, and a statement as to what convictions (if any) were recorded against the applicant during the twelve months preceding the making of the report;

(1) Amended by L.N. 84/1966

- (b) the Director of Medical Services or a member of the Department of Medical Services deputed by him for such purpose shall deposit at the licensing officer's office a written report on each application to be heard at the sitting, containing a statement as to the sanitary condition and adequacy of the premises to which the application relates, and of the furniture, fittings, and equipment therein, and in the case of an application for a renewal licence a statement as to the manner of preparation and service of food and drink during the current period of the licence, having regard to the interests of hygiene and otherwise.

(3) Every report made in terms of the preceding sub section shall set forth in detail the facts on which any conclusions or expressions of opinion are based, and if the officer submitting the report is unable to supply any of the foregoing particulars he shall specially state in his report the reason for that inability.

(4) Every objection and report lodged in terms of this section shall be made available for public inspection during the usual hours of business at the licensing officer's office.

#### **Procedure at Sitting of Licensing Court.**

13. (1) At the hearing of an application by a licensing court —

- (a) the officer who deposited a report on the application in terms of paragraph (a) of sub section (2) of section *twelve* shall appear and tender the report;
- (b) the officer who deposited a report on the application in terms of paragraph (b) of sub section (2) of section *twelve* shall appear and tender the report;
- (c) any person who gave notice of intention to oppose the application in terms of sub section (1) of section *twelve* shall then be entitled either in person or by his counsel or attorney to adduce evidence and to address the court in support of the grounds of his objection;
- (d) when all objectors have been heard the applicant shall be entitled likewise to adduce evidence and address the court in support of his application.

(2) All witnesses at such a hearing (including any person making a report in terms of paragraph (a) or (b) of the preceding sub section) shall give evidence and may be cross-examined and re-examined as far as possible in accordance with the procedure in force in the subordinate courts of Botswana<sup>1</sup>.

Provided that any person giving evidence at such a hearing regarding the financial position of his business or trade shall be entitled to disclose any relevant figures or accounts to the court only, and the court shall indicate to the other party (or parties) the general tenor of that evidence but shall not disclose those figures or accounts.

(1) Amended by L.N. 84/1966

## C.66

(3) A licensing court shall have all such powers, rights and privileges as are vested in a subordinate court of the first class, in respect of the following matters:—

- (a) The enforcing of the attendance of witnesses and their examination on oath, affirmation or otherwise;
- (b) the compelling of the production of documents;
- (c) the punishment of persons guilty of contempt;

and a summons signed by the licensing officer may be substituted for and shall be equivalent to any formal process capable of being issued by a subordinate court of the first class for enforcing the attendance of witnesses or compelling the production of documents.

### **Record and Recommendation of Licensing Court.**

14. (1) The licensing officer shall correctly record all evidence adduced at a hearing (including the reports made in terms of paragraphs (a) and (b) of sub section (1) of section *thirteen*; but in the case of evidence referred to in the proviso to sub section (2) of that section, shall record the general tenor thereof and not any figures or accounts) and, within fourteen days of the conclusion of the hearing, shall forward a copy of the record of the evidence so recorded to the licensing authority together with his recommendation in regard to the application.

(2) For a period of fourteen days commencing on the fourteenth day after the conclusion of such a hearing the licensing officer shall cause a copy of the record and recommendation forwarded to the licensing authority in terms of the preceding sub section to lie for public inspection at his office. During this period the applicant or any person who opposed the application at the hearing may make written representations to the licensing authority in regard to that record or recommendation.

(3) The licensing authority on receipt of a record and recommendation in terms of this section may, after the expiration of the period referred to in the preceding sub section and if he sees fit, cause the applicant or any other person to appear before him to give evidence or to produce some document (and the licensing authority shall have all such powers, rights and privileges as are referred to in sub section (3) of section *thirteen*).

### **Provisional Grant of Licence.**

15. (1) Where the licensing authority is satisfied, in considering an application for the issue or removal of any hotel liquor licence, club liquor licence, or bottle store licence, in respect of or to any premises about to be constructed or in the course of construction, that, if the proposed premises were completed in accordance with plans thereof submitted to him by the applicant, he would consent

to the issue or removal of a licence of the type applied for, the licensing authority may make a provisional grant of a licence in respect of those premises.

(2) A licence of which provisional grant has been made shall not be of effect until the licensing authority has declared the grant final, but the provisional grant shall continue in force for such period as the licensing authority may allow, and if not declared to be final by the end of that period shall expire.

(3) A licensing authority shall declare a provisional grant final on being satisfied —

- (a) that the premises have been completed in accordance with the plans deposited; and
- (b) that the grantee has not become disqualified under this Proclamation or any other law from holding a licence.

(4) No fee shall be payable upon the provisional grant of a licence but the appropriate fee for the licence shall be paid upon the declaration of the provisional grant as final.

#### **Extension of Permitted Hours.**

16. (1) A licensing officer, on any special occasion and upon payment of the appropriate fee, may grant an extension of the hours during which intoxicating liquor may be sold on licensed premises.

(2) No such extension shall be granted for a period exceeding three hours.

#### **Continuation of Licence in Event of Death, etc.**

17. (1) In any of the cases mentioned in the first column hereunder the persons set opposite thereto respectively in the second column hereunder may, for the unexpired period covered by the licence, carry on business thereunder:—

Death of the.....	the legal representative of the deceased licensee;
insolvency or assignment of the estate of the licensee	the trustee or assignee;
where the licensee falls under any civil disability.....	the legal representative of the licensee.

(2) The provision of this section shall not apply where the licensee in question is a nominee.

**C.68**

**Covering Orders.**

18. (1) Where an application has been made for the transfer of a licence to a new licensee, the licensing officer, on the application of the proposed transferee joined, except where the licensee and the proposed transferee are nominees of the same company, society, partnership or association, by the licensee, may on payment of the appropriate fee grant temporary authority (hereinafter referred to as a "covering order") to the proposed transferee to sell liquor under the licence in substitution for the licensee, until the application for the transfer has been determined.

(2) All the provisions of this Proclamation relating to licensees shall, while a covering order is in force, apply to the person to whom the order has been granted as they apply to a licensee.

(3) A licensing officer to whom application is made for a covering order may require the applicant to produce evidence in support of the application, orally or by affidavit, and may examine on oath or affirmation the applicant or any person so giving evidence before him.

(4) Unless the licensing officer otherwise directs, no application for a covering order shall be made unless the applicant, not less than forty-eight hours before so doing, has given notice in writing to the officer in charge of police in the area in which the licensed premises are situate, signed by the applicant or his authorised agent, and stating the applicant's full name and address and his trade or calling during the six months preceding the giving of the notice.

(5) The licensing officer by whom a covering order is granted shall endorse a memorandum of the order on the licence.

**PART IV**

**DEALINGS WITH LIQUOR**

**Selling Liquor Except Under Authority of a Licence.**

19. (1) Subject to the provisions of this Proclamation, no person —

(a) shall sell any intoxicating liquor without holding a licence authorising him to sell such liquor; or

(b) being a licensee, shall sell any intoxicating liquor —

(i) elsewhere than on the licensed premises; or

(ii) in any part of the licensed premises in which the sale is not authorised to take place.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.



**Sale, etc., of Liquor to be During Permitted Hours.**

20. (1) Subject to the provisions of this Proclamation —

- (a) no licensee shall supply intoxicating liquor to any person on licensed premises except during the permitted hours;
- (b) no licensee shall allow any person to consume intoxicating liquor on licensed premises except during the permitted hours for the supply of that liquor to that person or within fifteen minutes thereafter;
- (c) no person shall consume intoxicating liquor on licensed premises except during the permitted hours for the supply of that liquor to that person or within fifteen minutes thereafter.

(2) Nothing in the preceding sub section shall prohibit or restrict the supply of intoxicating liquor for consumption on premises licensed under an hotel liquor licence to any private friends of the licensee *bona fide* entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

**Importation, Exportation and Manufacture of Liquor.**

21. (1) No person shall import into Botswana<sup>1</sup> any intoxicating liquor except under the authority of a permit in the prescribed form issued by the licensing officer of the district to which the liquor is consigned.

(2) No person shall export from Botswana<sup>1</sup> any intoxicating liquor except under the authority of a permit in the prescribed form issued by the licensing officer of the district from which the liquor is to be exported.

(3) No person shall manufacture or in any way produce intoxicating liquor in Botswana<sup>1</sup> except under the authority of a permit in the prescribed form issued by the licensing officer of the district in which the liquor is manufactured or produced.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

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(1) Amended by L.N. 84/1966

## C.70

### **Storage of Liquor in Wholesale Quantities.**

22. (1) The holder of an hotel liquor licence, club liquor licence or bottle store licence shall not keep wholesale quantities of intoxicating liquor on the licensed premises elsewhere than in a room which is reserved exclusively for such purpose and which is separated from any adjacent part of the licensed premises by a substantial wall or partition containing no opening other than a substantial door capable of being securely locked.

(2) The holder of an hotel liquor licence or bottle store licence shall keep a register of all liquor put into the bulk store-room and shall not remove intoxicating liquor from the bulk store-room unless details of the quantity and type of liquor removed and the purpose for which the removal is made are entered in the same register and, in the case of spirits, unless every vessel or container thereof has written, printed or stamped upon it, or upon an adhesive label firmly affixed to it, in such a manner as clearly to be legible, a description of the contents thereof and the name and address of the licensee.

(3) The holder of an hotel liquor licence or bottle store licence shall retain every register kept in accordance with the provisions of this section for a period of two years after its completion, and shall at all reasonable times permit the inspection of all such registers in his possession by any member of the Botswana<sup>1</sup> Police of or above the rank of Inspector.

(4) Any licensee who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Delivery of Liquor.**

23. (1) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of intoxicating liquor for consumption off the licensed premises, deliver the same to the purchaser (or to any person on behalf of the purchaser) either at the licensed premises or elsewhere unless he —

(a) enters in a register and an invoice —

- (i) the date and time of the removal of the liquor from the licensed premises;
- (ii) the quantity, description and price of the liquor;
- (iii) the name and address of the person to whom the liquor is supplied;
- (iv) the name of the person (if any) who is to deliver the liquor on behalf of the licensee, or who is taking delivery of the liquor on behalf of the liquor on behalf of the purchaser;
- (v) the name and address of the licensee; and
- (vi) where the liquor is supplied under letter of exemption or permit the date and number thereof:

<sup>(1)</sup> Amended by L.N. 84/1966

- (b) signs the register entry and the invoice; and
- (c) delivers the invoice to the purchaser of the liquor, or to the person (if any) who is to deliver the liquor on behalf of the licensee or who is taking delivery of the liquor on behalf of the purchaser.

(2) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of spirits for consumption off the licensed premises, deliver the same to the purchaser (or to any person on behalf of the purchaser) either at the licensed premises or elsewhere unless before the spirits are removed from the licensed premises every container thereof has written, printed or stamped upon it, or upon an adhesive label firmly affixed to it, in such a manner as clearly to be legible, a description of the contents thereof and the name and address of the supplier.

(3) The holder of an hotel liquor licence or bottle store licence shall not, in pursuance of a sale by him of intoxicating liquor for consumption off the licensed premises —

- (a) carry that liquor away from the licensed premises unless the invoice referred to in sub section (1) hereof accompanies the liquor; or
- (b) deliver that liquor elsewhere than at the address shown in the invoice.

(4) The holder of an hotel liquor licence or bottle store licence shall retain every register kept in accordance with the provisions of this section for a period of two years after its completion, and shall at all reasonable times permit the inspection of all such registers, and of any manifold books which may be in his possession having been or to be used for the issue of invoices as aforesaid, by any member of the Botswana<sup>1</sup> Police of or above the rank of Inspector.

(5) Any holder of an hotel liquor licence or bottle store licence who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Removal of Spirits Between Districts.**

24. (1) Subject to the provisions of the next succeeding sub section, no person shall carry in any vehicle or receptacle, while in use for the removal of spirits from one district to another, any quantity of spirits in excess of two gallons except under the authority of a permit in the prescribed form issued by a licensing officer in the district to which the liquor is being removed or by any other licensing officer with the authority of a licensing officer in the district to which the liquor is being removed, and unless that permit accompanies the liquor.

(1) Amended by L.N. 84/1966

## **C.72**

(2) Nothing in this section shall apply to the removal of spirits to or from a district in transit between two other districts under the authority of a permit issued in terms of the preceding sub section or for the removal of spirits to or from a district in the course of their importation into or exportation from Botswana<sup>1</sup> under the authority of an import permit or export permit, as the case may be, issued under the provisions of section *twenty-one*.

(3) Any person who contravenes the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Consumption of Liquor in Sealed Containers.**

25. Where a person, having purchased intoxicating liquor from —

- (a) premises licensed under a bottle store licence, drinks that liquor on the licensed premises or in any nearby premises which are under the licensee's control;
- (b) the off-sales department of any premises licensed under an hotel liquor licence, drinks that liquor in public on the licensed premises or in any nearby premises which are under the licensee's control;

then, if that drinking is with the knowledge or consent of the licensee, the licensee shall be guilty of an offence and liable on conviction to a fine not exceeding R100<sup>\*</sup> or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Removal of Liquor from Licensed Premises in Evasion of Proclamation**

26. If the holder of any licence issued under this Proclamation, with intent to evade any of the provisions of this Proclamation, takes or allows any person to take any intoxicating liquor from the licensed premises for the purpose of its being sold on that licensee's account or for his benefit or profit, then that licensee shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to both such fine and imprisonment.

### **Intemperates.**

27. (1) A District Commissioner after considering such representations there- as the person concerned may wish to make, may by order in writing forbid the possession of liquor except under permit to any person resident in his district

<sup>(1)</sup> Amended by L.N. 84/1966

who, within the space of three months, and in any district in Botswana<sup>1</sup>, has thrice been convicted of any offence of which drunkenness is an element or committed under the influence of drink or who, having been twice so convicted, has also within that period been convicted of assault; or to any person so resident who, the District Commissioner is satisfied, is, by excessive drinking of liquor, mis-spending, wasting or lessening his estate or greatly impairing his health or endangering the peace or well-being of his family.

(2) Every such order shall be of force throughout Botswana<sup>1</sup> for such period not exceeding twelve months as the District Commissioner making the order determines, but may at any time, for good cause, be revoked by the District Commissioner who made the order.

#### **Supply of Liquor to Disqualified Persons or Intemperates.**

28. (1) Any person who, except under the authority of a permit —

- (a) supplies intoxicating liquor to a person whom he knows or has reason to believe to be a disqualified person or an intemperate; or
- (b) procures or attempts to procure intoxicating liquor for a person whom he knows or has reason to believe to be a disqualified person or an intemperate;

shall be guilty of an offence and liable on conviction to a fine not exceeding R600 or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(2) Any disqualified person or intemperate who, except under the authority of a permit —

- (a) is in possession of intoxicating liquor; or
- (b) acquires or attempts to acquire intoxicating liquor for himself;

shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Restriction on Sale, etc., of Liquor to Children or Young Persons.**

29. (1) A licensee shall not deliver intoxicating liquor to any person, other than a member of his family, whom he knows or has reason to believe to be under the age of fourteen years.

(2) A licensee shall not sell to any person intoxicating liquor to be consumed on the licensed premises by a person whom he knows or has reason to believe to be under the age of eighteen years.

(1) Amended by L.N. 84/1966

## C.74

(3) A person under the age of eighteen years shall not buy or attempt to buy in licensed premises intoxicating liquor to be consumed by him on the premises.

(4) No person shall buy or attempt to buy in licensed premises intoxicating liquor for consumption on those premises by a person under the age of eighteen years.

(5) Nothing in sub sections (2), (3) and (4) of this section shall prohibit the sale to or purchase by a person who has attained the age of sixteen years of intoxicating liquor other than spirits for consumption at a meal in a part of the premises which is usually set apart for the service of meals and is not a bar.

(6) A licensee shall not allow a person whom he knows or has reason to believe to be under the age of eighteen years to enter and remain in any bar on the licensed premises.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Adulterating Liquor, etc.**

30. Any licensee who —

- (a) dilutes or adulterates any liquor for sale; or who
- (b) sells from or keeps for sale in a cask, vessel or other container bearing the mark or label of any manufacturer or distributor of intoxicating liquor, any intoxicating liquor other than liquor which in all respects corresponds to the mark or label;

shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

## **PART V**

### **CONDUCT OF LICENSED PREMISES**

#### **Disqualified Persons and Intemperates Not to be Employed in Bottle Stores or Bars.**

31. (1) No disqualified person or intemperate shall be employed in premises licensed under a bottle store licence, or in the off-sales department of premises licensed under an hotel liquor licence, or in any bar on licensed premises while the bar is open for the sale or consumption of intoxicating liquor.

(2) A licensee who employs a disqualified person or intemperate in contravention of the provisions of the preceding sub section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(3) For the purposes of this section, a person employed in licensed premises shall not be deemed to be employed in any off-sales department or bar therein by reason only that in the course of his employment in some other part of the premises he enters the off-sales department or bar for the purpose of giving or receiving messages or of passing to or from some other part of the premises to or from which there is no other convenient means of access or egress.

**Licensee Not to Permit Drunkenness, etc.**

32. (1) Any licensee who permits drunkenness or any violent or riotous conduct to take place on the licensed premises shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(2) Any licensee who sells intoxicating liquor to or for consumption on the licensed premises by any person who appears to be in a state of intoxication shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

**Power to Exclude Drunkards, etc., From Licensed Premises.**

33. (1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, a licensee or his manager, agent or servant may refuse to admit to, or may expel from, the licensed premises any person who is drunk, violent, or disorderly, or whose presence in his premises would subject the licensee to a penalty under this Proclamation or any other law.

(2) If a person liable to be expelled from licensed premises under the provisions of this section is requested by the licensee, his manager, agent or servant, or by any member of the Botswana<sup>1</sup> Police, to leave the premises, and that person fails to leave the premises forthwith he shall be guilty of an offence and liable on conviction to a fine not exceeding R20, or, in default of payment thereof to imprisonment not exceeding fourteen days.

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(1) Amended by L.N. 84/1966

## **C.76**

### **Permitting Licensed Premises to be a Brothel or Resort of Prostitutes.**

34. If a licensee permits the licensed premises to be a brothel or to be the habitual resort or place of meeting of reputed prostitutes, he shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

### **Observance of Conditions of Licence.**

35. If a licensee acts in contravention of or fails to comply with any condition on or subject to which the licence was issued, he shall be guilty of an offence and liable on conviction to a fine not exceeding R100 and in the case of a continuing offence to an additional fine not exceeding R10 for every day during which the offence continues :

Provided that the court, if it thinks fit, may fix a reasonable period from the date of conviction for compliance with the condition in question ; and where the court has fixed such a period the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

### **Particulars to be Affixed to Premises, etc.**

36. (1) Every licensee, other than the holder of a temporary licence, shall —

(a) keep painted on or affixed to a conspicuous place on the outside of the licensed premises, his name and after the name the word “licensed” followed by words sufficient to express the business for which the licence is granted ; and

(b) display his licence on the licensed premises in a prominent position and so as easily to be read.

(2) A person who is not a licensee shall not have on his premises words or letters importing that he is a licensee.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

### **Hotel Registers.**

37. (1) Every holder of an hotel liquor licence shall keep a register which shall contain the following details in respect of every guest taking a room in the hotel :—



- (a) Arrival date ;
- (b) name in full of guest ;
- (c) signature of guest ;
- (d) permanent address ;
- (e) address to which proceeding ; and
- (f) nationality.

(2) Every holder of an hotel liquor licence shall —

- (a) present the register referred to in the preceding sub section to every guest who proposes to stay at the hotel, and request the guest to write therein his name and other particulars required ; and
- (b) at all reasonable times permit the inspection of that register by any member of the Botswana<sup>1</sup> Police of or above the rank of Inspector.

(3) Any holder of an hotel liquor licence who fails to comply with the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

(4) Any holder of an hotel liquor licence who fails to comply with the provisions of sub section (2) of this section and any guest at an hotel who fails on request by the licensee or his manager, agent or servant to write his name and particulars in the register, and any such guest who makes in any such register a statement or entry knowing the same to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Hotel Keeper to Provide Meals and Accommodation and to Keep Bar Open.**

38. (1) The holder of an hotel liquor licence shall not fail or refuse, except with good and sufficient cause, to —

- (a) supply at reasonable charges to any person demanding the same —
  - (i) accommodation, at any hour of day or night ;
  - (ii) meals (or other food) appropriate to the time of day between the hours of seven thirty o'clock in the morning and ten o'clock in the evening ;
- and

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(1) Amended by L.N. 84/1966

## **C.78**

- (b) have a bar on the licensed premises open for the sale of liquor between the hours of ten thirty o'clock in the morning and two o'clock in the afternoon and between the hours of four thirty o'clock in the afternoon and nine o'clock in the evening on all days except a Sunday, Good Friday or Christmas Day.

(2) Any holder of an hotel liquor licence who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Prohibition of Carrying on any Other Business on Licensed Premises.**

39. (1) No licensee except with the written consent of a licensing officer shall carry on, on the licensed premises any business other than business connected with the conduct of an hotel or restaurant or any business which he is authorised to carry on on the licensed premises under the provisions of this Proclamation.

(2) Any licensee who carries on any business in contravention of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R10 for every day during which the offence continues.

### **Sale of Tobacco, etc.**

40. Notwithstanding the provisions of any law to the contrary, the holder of an hotel liquor licence, club liquor licence, or temporary liquor licence may on the licensed premises and during the permitted hours carry on the business of selling snacks and light refreshments, tobacco, tobacco products, smokers' requisites, soft drinks, mineral waters, sweets and chocolates.

### **Prohibition of Making Structural Alterations to Licensed Premises Without the Consent of the Licensing Authority.**

41. (1) No structural alteration or addition to premises and no material alteration in the internal arrangements of premises, licensed under this Proclamation, shall be made except with the written approval of the licensing authority.

(2)<sup>1</sup> The licensee of any premises which are altered contrary to the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding ten rand, and, in the case of a continuing offence, to a further fine not exceeding ten rand for every day during which the offence continues.

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(1) Amended by Law 18/1961

**Closing of Licensed Premises on Serious Breach of the Peace or Danger to the Public Health.**

42. (1) If any serious breach of the peace occurs or is expected to occur, any Administrative Officer or member of the Botswana<sup>1</sup> Police of or above the rank of Assistant Superintendent may order any licensed premises in or near the place concerned to be closed for such period as he may think fit and any person carrying out such order may use such force as may be reasonably necessary for closing such premises.

(2) Where, in the opinion of the President<sup>1</sup>, a danger to public health would otherwise be likely to be created thereon, he may order any licensed premises to be closed for such period as he may think fit.

(3) Any person who resists or obstructs an order given under this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

## **PART VI**

### **SPECIAL PROVISIONS RELATING TO AFRICANS**

**Limitation of Application of Part.**

43. (1) The President<sup>1</sup> on application by a Chief may by notice in the *Gazette* declare that for the period the notice remains in force the provisions of this Part of the Proclamation shall not within that Chief's area of jurisdiction apply to such kinds of intoxicating liquor as he may specify in the notice.

(2) A notice issued under the provisions of the preceding sub section may be unlimited as to time or may be expressed to be in force for such period as may be specified therein.

(3) Notwithstanding the provisions of the preceding sub section the President<sup>1</sup> may at any time cancel any notice issued under the provisions of sub section (1) hereof.

**Supply of Intoxicating Liquor to Africans.**

44. (1) Subject to the provisions of sub section (2) of this section, no person shall supply intoxicating liquor to an African and no African shall have intoxicating liquor in his possession, except under the authority of a letter of exemption.

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(1) Amended by L.N. 84/1966

## C.80

(2) Subject to the provisions of section *forty-five* (which relates to the supply of intoxicating liquor to Africans as messengers) nothing in sub section (1) of this section shall apply to any intoxicating liquor supplied to or in the custody of an African in the normal course of delivery to some person entitled to have possession of the same.

(3) Any person who supplies intoxicating liquor to an African or who procures or attempts to procure intoxicating liquor for the purpose of supplying the same to an African in contravention of the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(4) Any African who is in possession of intoxicating liquor or who acquires or attempts to acquire intoxicating liquor for himself in contravention of the provisions of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Supply of Liquor to Africans as Messengers.**

45. (1) For the purposes of this section, "African" shall not include an African in possession of an unlimited letter of exemption within the area for which the letter is valid.

(2) No person shall employ or allow any African who is not a member of his family or in his *bona fide* regular employment to take delivery of intoxicating liquor on his behalf.

(3) No licensee shall supply to any African who is not in his *bona fide* regular employment intoxicating liquor for delivery to some other person, unless that African produces a written order for the same signed by the person to whom delivery is to be made.

(4) A person who contravenes any of the provisions of sub sections (2) and (3) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(5) No order given for the purposes of this section shall be valid unless it bears the name of the place at and the date on which it is signed and gives particulars of the description and quantity of liquor required and the name of the employee who is to take delivery thereof, and no such order shall be valid after the expiration of fourteen days from such date.

(6) Every order produced under the provisions of this section shall be retained by the licensee for a period of six months from the date on which the liquor was supplied and the licensee at all reasonable times during that period shall permit the inspection thereof by any member of the Botswana<sup>1</sup> Police of or above the rank of Inspector. A licensee who fails to comply with any of the provisions of this sub section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(7) Where a licensee supplies intoxicating liquor to an African who produces a written order purporting to be made in accordance with the provisions of this section, if the licensee knows or has reason to believe that the African producing the order is not the person referred to therein or is not a member of the family or in the *bona fide* regular employment of the person giving the order or that the signature on the order is not that of a person known to him to be entitled to purchase the liquor ordered, he shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### Letters of Exemption.

46. (1) A letter of exemption issued under this section may be either —

- (a) an unlimited letter of exemption, that is to say a letter of exemption which permits the holder, within the area for which in terms of sub section (2) hereof it is valid, to be supplied and to be in possession of all kinds of intoxicating liquor; or
- (b) a limited letter of exemption, that is to say a letter of exemption which, within the area for which in terms of sub section (2) hereof it is valid —
  - (i) permits the holder to purchase every calendar month such kinds and quantities of intoxicating liquor, in sealed bottles or other sealed vessels, as may be specified therein in pursuance of sub section (10) hereof, from a licensee to whom the duplicate original of the letter has been issued, on production of the letter to that licensee on the occasion of each separate purchase thereunder; provided that the licensee retains, during the validity of the letter, the said duplicate original; and
  - (ii) permits the holder to be in possession of liquor purchased by him under the authority of the letter.

(2) A letter of exemption shall be valid —

- (a) within the area of jurisdiction of the Chief who recommended (or concurred in) the issue of the same in terms of sub section (4) hereof; and

<sup>(1)</sup> Amended by L.N. 84/1966

C.82

(b) within the area of jurisdiction of any other Chief who makes an endorsement thereon in terms of section *forty-seven*.

(3) An African wishing to purchase and be in possession of intoxicating liquor may apply in the prescribed form to the Chief having jurisdiction where he resides to recommend the issue to himself of a letter of exemption.

(4) The Chief shall consider every application made to him in terms of the preceding sub section and, in his discretion, may —

- (a) recommend to the licensing officer that the applicant be issued with an unlimited letter of exemption; or
- (b) recommend to the licensing officer that the applicant be issued with a limited letter of exemption; or
- (c) refuse the application.

(5) The licensing officer shall consider every application in respect of which the Chief has made a recommendation in terms of paragraph (a) or (b) of the preceding sub section and —

- (a) in the case of a recommendation in terms of paragraph (a) of the preceding sub section —
  - (i) may issue an unlimited letter of exemption to the applicant; or
  - (ii) with the concurrence of the Chief, may issue a limited letter of exemption to the applicant; or
  - (iii) may refuse the application;
- (b) in the case of a recommendation in terms of paragraph (b) of the preceding sub section, may issue a limited letter of exemption to the applicant, or may refuse the application.

(6) Whenever a licensing officer issues a limited letter of exemption in terms of the preceding sub section he shall issue a duplicate original of the of the letter to a licensee nominated by the person to whom the letter is issued. If that licensee's licensed premises are not within the area of jurisdiction of the Chief who recommended (or concurred in) the issue of the letter of exemption, the licensing officer shall endorse on the letter and on the duplicate original thereof a statement drawing attention to the fact that the letter is of no force or effect until suitably endorsed in terms of section *forty-seven*.

(7) A licensing officer may at any time on the application or with the consent of the Chief revoke any letter of exemption issued by him by giving notice thereof to the holder of the letter and, in the case of a limited letter of exemption, to the licensee to whom the duplicate original of the letter was issued.

(8) Where a licensing officer refuses an application for a letter of exemption recommended to him by the Chief in terms of paragraph (a) or (b) of sub section (4) hereof, or refuses to revoke a letter of exemption on the application of the Chief in terms of sub section (7) hereof, or wishes to revoke a letter of exemption to the revocation of which the Chief has in terms of sub section (7) hereof refused to consent, he shall refer the matter to the licensing authority who shall review the matter and the licensing authority's decision thereupon shall be final.

(9) A letter of exemption and the duplicate original of a limited letter of exemption issued under this section shall be in the prescribed form and, subject to the provisions of sub section (7) hereof, every letter of exemption shall be of force for one year from the date of issue.

(10) The licensing authority after consultation with the Chief may from time to time define the kinds and quantities of intoxicating liquor to be specified in limited letters of exemption issued to Africans resident in that Chief's area of jurisdiction.

#### **Endorsement of Letters of Exemption by Other Chiefs.**

47. (1) An African in possession of a current letter of exemption issued in terms of the preceding section who wishes the letter to be made valid within the area of jurisdiction of some other Chief may apply to that other Chief to endorse the letter in respect of his area of jurisdiction.

(2) A Chief to whom an application is made in terms of the preceding sub section may in his discretion endorse the letter in respect of his area of jurisdiction, or refuse the application.

(3) Every endorsement made in terms of the preceding sub section shall be in the prescribed form and, in the case of a limited letter of exemption the duplicate original of which was issued to a licensee whose licensed premises are situate within the area for which the letter has been endorsed, the Chief shall give notice in the prescribed form to the licensee that the endorsement has been made.

#### **President's<sup>1</sup> Letter of Exemption.**

48. (1) Where in his opinion special circumstances make it desirable for him to do so the President<sup>1</sup> may issue a letter of exemption (referred to hereinafter as a President's<sup>1</sup> letter of exemption) to any African.

(2) A President's<sup>1</sup> letter of exemption shall be in writing and shall permit the holder throughout Botswana<sup>1</sup> to be supplied with and to be in possession of intoxicating liquor.

(1) Amended by L.N. 84/1966

## C.84

(3) A President's<sup>1</sup> letter of exemption shall be of force for the period specified therein.

(4) Notwithstanding the provisions of the preceding sub section the President<sup>1</sup> may at any time revoke any President's<sup>1</sup> letter of exemption by giving notice thereof to the person to whom the letter was issued.

## PART VII

### KAFFIR BEER

#### **Manufacturing, etc., Kaffir Beer on Private Land<sup>2</sup>.**

49. (1) This section shall apply to private land situate outside the limits of any township constituted under the Townships Proclamation (Chapter 120 of the Laws of Botswana<sup>1</sup>) or any law hereafter substituted for the same.

(2) On land to which this section applies no person shall manufacture or be in possession of kaffir beer in any quantity in excess of four gallons without the consent of the owner or occupier of the land, or of any manager or agent thereof

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

#### **Beer Hall Regulations.**

50. (1) The President<sup>1</sup>, by notice in the *Gazette*, may make regulations providing for —

- (a) the licensing of premises to be used for the sale of kaffir beer or for the manufacture of kaffir beer for sale, elsewhere than in a tribal territory;
- (b) the fees to be charged for such licences and the conditions under which such licences may be issued;
- (c) the construction of such premises and the provision of proper lighting and ventilation and adequate sanitary facilities therein;
- (d) the periodical cleansing and re-decorating of such premises;

(1) Amended by L.N. 84/1966

(2) Replaced by Law 8/1962



- (e) the inspection of such premises for securing that they are kept clean and in such a condition as not to endanger the public health, and for securing compliance with any conditions of a licence or the provisions of any law;
- (f) the standard or standards of purity and the methods of manufacture of the kaffir beer to be sold or manufactured therein;
- (g) the maximum price or prices at which kaffir beer shall be sold therein;
- (h) the hours during which such premises may be open and the hours during which kaffir beer may be sold and consumed therein, and the general conduct of such premises; and
- (i) the utilization for welfare work at the place where such premises are situated of any specified part of the profits derived from the sale or manufacture of kaffir beer on those premises and for the calculation of such part by reference to the quantity of beer sold or manufactured on those premises.<sup>1</sup>

(2) The regulations may provide that any person who contravenes any provision thereof or who fails to comply with any order, requirement or condition lawfully issued to or imposed on him by virtue of any regulation and with which it is his duty to comply shall be guilty of an offence. The regulations shall specify what penalty may be imposed for each offence thereby created and may also provide different penalties in the case of successive or continuous offences but no such penalty shall exceed a fine of two hundred rand, or, in default of payment thereof, imprisonment for a period of six months, or such imprisonment without the option of a fine or both such fine and imprisonment.<sup>2</sup>

## PART VIII

### SUPPLEMENTARY

#### Issue of Permits.

51. (1) A licensing officer may issue to any disqualified person or intemperate who is resident within his jurisdiction, a permit in the prescribed form to purchase and be in possession of intoxicating liquor. Whenever a licensing officer issues such a permit he shall issue a duplicate original thereof to such licensee as the permit-holder may nominate

(2) A permit shall —

- (a) permit the holder to purchase every calendar month such kinds and quanti-

(1) Amended by Law 10/1961, and Law 28/1964

(2) Replaced by Law 18/1961

## C.86

ties of intoxicating liquor, in sealed bottles or other sealed vessels, as the licensing officer may specify therein, from the licensee to whom the duplicate original of the permit has been issued, on production of the permit to that licensee on the occasion of each separate purchase thereunder; provided that the licensee retains, during the validity of the permit, the said duplicate original;

- (b) permit the holder to be in possession anywhere within Botswana<sup>1</sup> of liquor purchased by him under the authority of the permit.

### **Licensee's Duty in Regard to Limited Letters of Exemption and Permits.**

52. (1) Every licensee who sells intoxicating liquor under the authority of a limited letter of exemption or a permit shall in addition to complying with the provisions of section *twenty-three* —

- (a) forthwith enter or cause to be entered in ink on the appropriate part of the letter of exemption or permit and on the duplicate original thereof, an accurate statement of the kind and quantity of liquor supplied, the date and time of supply, and the signature of the person making the entry; and
- (b) return the letter of exemption or permit to the holder.

(2) Every licensee to whom is issued the duplicate original of a letter of exemption under section *forty-six* or of a permit under section *fifty-one* shall within five days after he receives notice of the cancellation of the letter of exemption or permit expires, as the case may be, return the duplicate original thereof to the licensing officer who issued the same.

(3) A licensee shall at all reasonable times permit the inspection of all duplicate original letters of exemption and permits in his possession by any member of the Botswana<sup>1</sup> Police of or above the rank of Inspector.

(4) A licensee who makes default in complying with any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Production of Letter of Exemption or Permit.**

53. (1) A person to whom a letter of exemption or a permit has been granted, if requested by any member of the Botswana<sup>1</sup> Police to produce that letter of exemption or permit for inspection, shall —

<sup>(1)</sup> Amended by L.N. 84/1966

- (a) produce the letter of exemption or permit for inspection forthwith; or
- (b) forthwith declare to that member of the Botswana<sup>1</sup> Police his name and address, and produce the letter of exemption or permit for inspection by a member of the Botswana<sup>1</sup> Police within seven days of that demand.

(2) Any person who fails to comply with the provisions of the preceding subsection and any person who, for the purposes of paragraph (b) thereof, declares a false or inadequate name and address to a member of the Botswana<sup>1</sup> Police shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Loss, etc., of Licence, Permit or Letter of Exemption.**

54. If the licensing officer who issued any licence, permit or letter of exemption is satisfied as to the destruction, defacement or loss thereof he may on payment of the appropriate fee issue to the licensee a duplicate of the same.

#### **False Statements.**

55. Any person who wilfully makes or inserts any false statement in any form, book or other document required by this Proclamation shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

#### **Forging Licences, etc.**

56. Any person who —

- (a) forges any licence, permit or letter of exemption;
- (b) alters or erases any part of a licence, permit or letter of exemption or any entry lawfully made thereon;
- (c) produces or uses any forged licence, permit or letter of exemption which to his knowledge has been unlawfully altered, or from which erasures have been unlawfully made;
- (d) produces or uses any licence, permit or letter of exemption in the name of some other person, living or dead, or of a fictitious person;

shall be guilty of an offence and liable on conviction to a fine not exceeding R600, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

(1) Amended by L.N. 84/1966

## C.88

### **Departure of Guest From Licensed Premises.**

57. (1) No person shall depart from licensed premises in which he has registered as a guest in terms of section *thirty-seven* unless he has paid his account for accommodation or has made arrangements with the licensee or his manager or servant whereby the account has been left in abeyance.

(2) A copy of this section and a copy of the tariff of charges applicable to the room in question shall be exhibited in such a manner as clearly to be read in every bedroom in licensed premises used for the accommodation of guests.

(3) A person who, having registered as a guest in licensed premises and having been accommodated in a room therein in which copies of this section and of the tariff of charges were exhibited in accordance with the preceding sub section, departs from those premises in contravention of sub section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or, in default of payment thereof to imprisonment not exceeding three months, or to such imprisonment without the option of a fine, or to both such fine and imprisonment.

### **Meaning of "Possession".**

58. For the purposes of this Proclamation a thing shall be deemed to be in the possession of any person —

- (a) if he has it in his personal custody or possession;
- (b) if he knowingly and wilfully has it in the actual custody or possession of some other person, or in some building or place (whether owned or occupied by him or not); or
- (c) unless the contrary be shown, if it is found on any premises normally occupied by that person.

### **Evidence of Sale or Consumption of Liquor.**

59. (1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under the provisions of this Proclamation, be evidence of the sale of such liquor without proof that money passed.

(2) Evidence that consumption of intoxicating liquor was about to take place shall, in any such proceedings as aforesaid, be evidence of the consumption of intoxicating liquor without proof of actual consumption.

(3) Evidence that any person, other than the licensee of licensed premises or a servant employed in licensed premises, consumed or intended to consume intoxicating liquor in such premises shall in any such proceedings as aforesaid and unless the contrary be shown, be evidence that the liquor was sold by or on behalf of the licensee to that person.

**Criminal Responsibility of Employer and Employee.**

60. (1) Whenever the manager, agent or servant of a licensee does or omits to do anything which if done or omitted to be done by the licensee would be in contravention of some provision of this Proclamation, then except in the circumstances set out in sub section (2) of this section that licensee shall be deemed to have contravened that provision and shall be liable on conviction to the penalties therefor.

(2) The provisions of the preceding sub section shall not apply where —

- (a) in doing or omitting to do that thing the manager, agent or servant was acting without the licensee's knowledge, consent or connivance; and
- (b) all reasonable steps were taken by the licensee to prevent any act or omission of the kind in question: Provided that the fact that the licensee issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(3) A manager, agent or servant of a licensee who does or omits to do anything which if done or omitted to be done by the licensee would be in contravention of some provision of this Proclamation shall be deemed himself to have contravened the provision and shall be liable on conviction to the penalties therefor.

**Cancellation of Permit or Letter of Exemption by Court.**

61. Where the holder of a letter of exemption or permit is convicted of any offence of which drunkenness is an element or committed under the influence of drink, or of assault or any offence under this Proclamation, the court by whom he is convicted may cancel the letter of exemption or permit and shall cause written notice of the cancellation to be given to the licensing officer and also, where appropriate, to the licensee who holds the duplicate original thereof.

**Forfeiture of Licence and Disqualification.**

62. (1) Where any licensee who being convicted of an offence under this Proclamation is within the space of five years from the date of that conviction again convicted of an offence under this Proclamation, the court imposing the subsequent conviction may in addition to imposing any other lawful penalty order that the licensee shall forfeit his licence.

(2) Where any person who being convicted of an offence under —

- (a) section *nineteen* ;
- (b) section *twenty-eight* ;
- (c) section *forty-four* ; or
- (d) section *forty-five* ;

## **C.90**

of this Proclamation is within a space of five years from the date of that conviction again convicted of an offence under the same section or any other of the foregoing sections the court in addition to imposing any other lawful penalty may order that the person convicted be disqualified for a period not exceeding five years from possessing intoxicating liquor except under permit.

### **Liquor and Vessels May be Forfeited to the State<sup>1</sup>.**

63. (1) Where any person is convicted of an offence under this Proclamation relating to intoxicating liquor or kaffir beer the court in addition to imposing any other lawful penalty may order that any intoxicating liquor or kaffir beer in respect of which the offence was committed and which was found in the possession of the accused and any vessel or container in which that liquor or kaffir beer is contained shall be forfeited to the State<sup>1</sup>.

(2) Liquor, kaffir beer, vessels or containers forfeited to the State<sup>1</sup> in terms of this section shall be sold or otherwise disposed of as the court imposing the forfeiture may direct, and unless the President<sup>1</sup> otherwise directs the proceeds shall be applied as if they were a fine.

### **Temporary Licence Pending Appeal.**

64. (1) Where on conviction of an offence a licence is forfeited and the person convicted appeals against the conviction, the court, in its discretion and on such conditions, if any, as it thinks just, may grant a temporary licence, without payment of fee to be in force until the appeal is determined or ceases to be prosecuted.

(2) A temporary licence granted under the provisions of the preceding sub section shall apart from any conditions imposed under the said sub section be of the same force and effect and be subject to the same conditions as the licence forfeited.

### **Power to Prescribe Forms, etc.**

65. The President<sup>1</sup>, by notice in the *Gazette*, may prescribe any matter which under any provision of this Proclamation (including the First Schedule) requires to be prescribed.

### **Exercise of Discretionary Powers Under this Proclamation.**

66. Where under this Proclamation, any person or authority<sup>2</sup> is vested with a power to allow, give consent to, grant, or revoke any matter or thing, then, subject to the provisions of this Proclamation and to any directions of the President<sup>1</sup>,

(1) Amended by L.N. 84/1966

(2) Amended by Law 11/1965

that person, with or without assigning any reasons and in his absolute discretion, may allow or disallow, give or withhold his consent to, grant or not grant, or revoke or not revoke that matter or thing as he thinks most conducive to the public good:

Provided that nothing in this section shall be construed as referring to any power vested under this Proclamation in any court.

**Jurisdiction.**

67. Notwithstanding the provisions of any law to the contrary subordinate courts of the first class shall have special jurisdiction to impose any of the penalties prescribed in this Proclamation or any regulations made thereunder.

**Saving.**

68. Nothing in this Proclamation shall be construed as derogating from any rule or order concerning intoxicating liquor or kaffir beer which may at any time be in force under the African Administration Proclamation (Chapter 67 of the Laws of the Bechuanaland Protectorate) or any law hereafter substituted for the same.

**Repeal.**

69. The laws set out in the Second Schedule to this Proclamation are hereby repealed.

Provided that any licence which was granted under any of the provisions of the laws repealed and which is in force at the commencement of this Proclamation shall have effect as if it has been issued under the provisions of this Proclamation.

GOD SAVE THE QUEEN

Given under my Hand and Seal at Pretoria this Twenty-first day of December, One thousand Nine hundred and Sixty.

C.R. LATIMER,  
High Commissioner's Deputy.

**FIRST SCHEDULE**  
(Section 2)

**FEEs**

The fees set out in the second column hereunder shall be paid in respect of the corresponding matters set out in the first such column —

- |   |   |
|---|---|
| 1. Railway Administration Exemption Fee<br>(section 3(2)(d))                | R150  |
| 2. Issue of Licence:—   |   |
| (a) New hotel liquor licence .....  | R80   |
| (b) Renewal hotel liquor licence.....                                       | R80 if the hotel is situate within an area prescribed by the President. Otherwise R150. |
| (c) New or renewal club liquor licence                                      | R40   |
| (d) New or renewal bottle store licence                                     | R150  |
| (e) Temporary liquor licence (section 9)                                    | R2 per day or part thereof.   |
| 3. Transfer or removal of licence during its period of validity (section 9) | One-half the fee payable for the issue of a new licence of the kind in question.        |
| 4. Extension of permitted hours (section 16)                                | R2 per hour or part thereof.  |
| 5. Appeal to the President (section 9(5))                                   | R20   |
| 6. Covering order (section 18)  | One-quarter of the fee payable for the issue of a new licence of the kind in question.  |
| 7. Issue of a duplicate licence or permit<br>(section 54)                   | 25c.  |

**SECOND SCHEDULE**  
(Section 69)

**LAWS REPEALED**

The Liquor Licensing Act, 1883 (No. 28 of 1883 of the Colony of the Cape of Good Hope).

The Liquor Licensing Amendment Act, 1885 (No. 44 of 1885 of the Colony of the Cape of Good Hope).

The Liquor Proclamation (Laws of the Bechuanaland Protectorate, 1948, c.84).

The Bechuanaland Protectorate Liquor (amendment) Proclamation, 1952 (No. 9 of 1952).

The Bechuanaland Protectorate Liquor (Amendment) Proclamation, 1953 (No. 57 of 1953).





**THE STOCK THEFT PROCLAMATION (CHAPTER 24)**

as amended by

**THE STOCK THEFT (AMENDMENT) LAW, 1965**

(No. 33 of 1965)

Promulgated 31st December, 1965

and

**THE STOCK THEFT (AMENDMENT) LAW, 1966**

(No. 7 of 1966)

Promulgated 11th June, 1966

Reprinted by direction of the Attorney-General in terms of section 3 of the Amendment Incorporation Law, 1961, on 10th February 1967.

**THE STOCK THEFT PROCLAMATION**

**ARRANGEMENTS OF SECTIONS**

*Section*

1. Short Title
2. Interpretation
3. Possession of Stolen Stock
4. Duty to Ascertain Bona Fides of Seller of Stock
5. Trespass with Intent to Steal
6. Alternative Verdict on Charge of Stock Theft
7. Night Delivery of Stock Forbidden
8. Arrest on Suspicion
9. Wrongful Arrest
10. Penalties
11. Further Penalties
12. Compensation
13. Indictment.

**C.94**

27 of 1935  
69 of 1936  
Cap. 20  
11 of 1954  
33 of 1965

**CHAPTER 24**  
**STOCK THEFT**

7 of 1966 *To make provision for the prevention of thefts of stock and produce.*

(17th May, 1935)

**Short Title.**

1. This Proclamation may be cited as the Stock Theft Proclamation.

**Interpretation.**

2. In this Proclamation :

“produce” means the whole or any part of any skins, hides or horns of stock, any wool, mohair or ostrich feathers ;

“public sale” means a sale effected —

- (a) on any public market, or
- (b) by any shopkeeper during the hours when his shop may by any law in force remain open for the transaction of business, or
- (c) by duly licensed auctioneer at a public auction, or
- (d) in pursuance of an order of a competent Court.

“stock”<sup>(1)</sup> means any horse, mare, gelding, ass, mule, bull, cow, ox, ram, ewe, wether, goat, pig or ostrich, or the young thereof ;

“sufficient fence” when applied to wire fences means a fence of not fewer than four wires and not less than three feet six inches high; in other cases any fence, wall or hedge through which no stock could pass without breaking, or any natural boundary through or across which no sheep would ordinarily pass.

**Possession of Stolen Stock.**

3. A person who is found in possession of stock or produce in regard to which there is reasonable suspicion that the same has been stolen and is unable to give a satisfactory account of such possession shall be deemed to be guilty of an offence.

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(1) amended by Law 33/1965.

**Duty to Ascertain Bona Fides of Seller of Stock.**

4. A person who in any manner, otherwise than at a public sale, acquires or receives into his possession from any other person stolen stock or stolen produce without having reasonable cause, proof of which shall be on such first-mentioned person, for believing at the time of such acquisition or receipt that such stock or produce was the property of the person from whom he received it or that such person was duly authorised by the owner thereof to deal with it or dispose of it, shall be deemed to be guilty of an offence.

**Trepass with Intent to Steal.**

5. (1) A person who in any manner enters any land enclosed on all sides with a sufficient fence, or any kraal with intent to steal any stock or produce on such land or in such kraal shall be guilty of an offence.

(2) Where a person is found on any such land or in any such kraal, then, unless —

- (a) he satisfies the Court that he had reasonable and lawful excuse for his presence there, or
- (b) he was proceeding along a road or thoroughfare traversing such land or part of such land,

the onus shall be on him to prove that he did not enter such land or kraal with intention to steal the stock or produce therein.

**Alternative Verdict on Charge of Stock Theft.**

6. (1) A person who is charged with the theft of stock or produce may be found guilty of —

- (a)<sup>1</sup>
- (b)<sup>1</sup>
- (c)<sup>1</sup>
- (d)<sup>1</sup>
- (e) contravening section 3 or 4 of this Proclamation

(2) A person charged with theft of stock or produce belonging to a particular person may be found guilty of any of the offences mentioned in the preceding sub-section, notwithstanding the fact that the prosecution has failed to prove that such stock or produce actually did belong to such particular person.

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<sup>(1)</sup> deleted by Law 33/1965.

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## C.96

### **Night Delivery of Stock Forbidden.**

7. Any person who for purposes of trade makes or accepts delivery between the hours of sunset and sunrise of any stock or produce sold or purchased or otherwise disposed of or acquired by him in any other manner than at a public sale shall be guilty of an offence.

### **Arrest on Suspicion.**

8. (1) In addition to any powers of arrest conferred by any other law, any person may, without warrant, arrest any other person upon reasonable suspicion that such other person has committed the offence mentioned in section 3 or 5 of this Proclamation.

(2) Whenever any Justice of the Peace, member of a Police Force, or owner, lessee or occupier of land reasonably suspects that any person has in or under any receptacle or covering, or in or upon any vehicle any stolen stock or produce, such Justice of the Peace, member of a Police Force, owner, lessee or occupier may without warrant search such receptacle or vehicle and remove such covering, and if he thereupon finds any stock or produce which he reasonably suspects to have been stolen he may without warrant arrest such person and shall as soon as possible convey him and the stock or produce so found to a police station or charge office.

### **Wrongful Arrest.**

9. (1) A person who under colour of this Proclamation wrongfully and maliciously or without probable cause arrests any other person or effects any search shall be deemed to be guilty of an offence.

(2) In any charge under this section the onus of proof that the arrest or search which is the subject of the charge was not wrongful and malicious or without probable cause shall be upon the accused.

(3) Nothing in this section contained shall be construed as taking away or diminishing any civil right or liability in respect of a wrongful or malicious arrest.

### **Penalties.<sup>1</sup>**

10. Any person convicted of any of the offences specified in section 6 (1) (e) shall be liable to a fine not exceeding R400, to imprisonment not exceeding two years or to both such fine and imprisonment.

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(1) Replaced by Law 33 1965.

Page reprinted 15th December, 1967

By direction of the Attorney-General in terms of section 3 of the Amendments Incorporation Law,  
1967 — See G.N. 134 of 1967

### Further Penalties

11. Any person convicted of an offence under sections 5(1), 7 or 9(1) shall be liable to a fine not exceeding R200, to imprisonment not exceeding two years or to both such fine and imprisonment.<sup>2</sup>

### Compensation<sup>1</sup>

12. (1) In all cases of a conviction for<sup>1</sup> either of the offences mentioned in section 6(1) (e) in which —

- (a) the Court is satisfied that the stock or produce which forms the subject matter of the charge is the property of some particular person;
- (b) such stock or produce has not been recovered, or, if recovered, is worth less than its market value at the time of the theft; and
- (c) the owner of such stock or produce does not apply under the provisions of the law relating to African Courts for compensation.

the Court shall in addition to any sentence which it may impose, impose on the person so convicted compensation<sup>2</sup> not exceeding the full market value of such stock or produce at the time when the theft was committed if the said stock or produce has not been recovered, or, if the said stock or produce or portion thereof has been recovered, compensation<sup>2</sup> not exceeding the difference between the market value of the said stock or produce when the theft was committed and its value when recovered, and in default of payment at the expiration of the sentence, imprisonment for a further period not exceeding twelve months.

(2) Such compensation<sup>2</sup> may be recovered in the manner provided by section 314 of Chapter 18, and any amount so recovered shall be paid to the owner of the stolen stock or produce subject to the said owner giving security *de restituendo* in case the judgment of the said Court be reversed on appeal or review.

(3) The provisions of this section shall not apply to the case of any person sentenced to detention in a juvenile reformatory or juvenile adult reformatory or to whipping without imprisonment unless it be proved that such person has the means of satisfying any compensation<sup>2</sup> imposed thereunder.

### Indictment

13. The provisions of this Proclamation shall apply in every case where an accused is indicted, summoned or charged in respect of the theft of stock or produce, notwithstanding the fact that this Proclamation be not referred to in such indictment, summons or charge.

(1) amended by Law 33/1965 and 7/1966

(2) amended by Law 33/1965..

1. The first part of the document is a list of the names of the members of the committee who have been appointed to study the problem of the

**THE CONTROL OF LIVESTOCK INDUSTRY PROCLAMATION (CHAPTER 109)**

as amended by

**THE CONTROL OF LIVESTOCK INDUSTRY (AMENDMENT)  
PROCLAMATION, 1959**

(No. 16 of 1959)

(Promulgated 27th February, 1959)

and

**THE GENERAL LAW (TAXATION PROVISIONS) AMENDMENT LAW, 1961**

(No. 21 of 1961)

(Promulgated 1st January, 1962)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Effect 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint : 17th February, 1967.

**THE CONTROL OF LIVESTOCK INDUSTRY PROCLAMATION**

**ARRANGEMENT OF SECTIONS**

*Section*

**Preliminary**

1. Short Title
2. Interpretation

**PART I**

**Purchase of Livestock**

3. Permits for Sale or Disposal by Africans
4. Purchase or Acquisition of Livestock
5. Sale or Disposal of Livestock
6. Licences and Fees
7. Deposit or Security Required on Issue of Livestock Buyer's Licence
8. Free Licences
9. Licences to be Carried and Produced
10. Touts
11. Returns



**C.100**

- 12. All Livestock to be Branded after Purchase or Acquisition
- 13. Offences
- 14. Onus on Accused Persons
- 15. Public Sales of Livestock

**PART II**

**Export of Livestock**

- 16. Export by Registered Exporters and Registered Producers only on Export Permit
- 17. Restriction on Export of Breeding Stock
- 18. Application for Registration as Exporter or Producer
- 19. Information to be Furnished on Demand
- 20. Offences

**PART III**

**Levy on Cattle Exported**

- 21. Levy on Cattle Exported
- 22. Manner of Payment
- 23. Cattle Export Levy Fund
- 24. Offence to Export without having Paid Levy
- 25. Sufficiency of Proof of Non-payment of Levy
- 26. Suspension of Levy

**PART IV**

**Export of the Products of the Slaughtering of Livestock and the Licensing etc. of Export Slaughter Houses**

- 27. Export of Meat to be from Export Slaughter House or Under Permit
- 28. Supplying Livestock to an Export Slaughter House
- 29. Construction of Slaughter House Capable of Use for Export Trade.

**PART V**

**General**

- 30. Refusal of Removal Permits or the Imposition of Conditions
- 31. Power to make Regulations
- 32. Penalties

**PART VI**

**Purchase of Livestock Produce**

- 33. Licence to Purchase or Acquire Produce for the Purpose of Trade
- 34. Extension of Licence
- 35. Endorsement of Conditions on Licences
- 36. Licence Fees
- 37. Penalties and Onus of Proof.

67 of 1941.

23 of 1943.

21 of 1944.

Cap. 86.

21 of 1950.

65 of 1952.

84 of 1953.

16 of 1959.

21 of 1961.

L.N. 84 of 1966.

## CHAPTER 109

### CONTROL OF LIVESTOCK INDUSTRY

*To make provision for the control of livestock.*

*(19th December, 1941)*

#### Short Title.

1. This Proclamation may be cited as the Control of Livestock Industry Proclamation.

#### Interpretation.

2. (1) For the purposes of this Proclamation, the expression —

(“Abattoir”)<sup>1</sup>

“Chief” means any African recognised as a Chief by the President<sup>2</sup>, and includes any African so recognised temporarily as an acting Chief;

“export slaughter house” means a slaughter house licensed as an export slaughter house under section 26;<sup>1</sup>

“Livestock” includes cattle, sheep and goats;<sup>1</sup>

(“Livestock produce”)<sup>1</sup>

“Non-tribal area” means any area which is not a tribal area, as defined in this section;

“slaughter house” means a place where livestock are slaughtered for human consumption;<sup>1</sup>

“Tribal area” means the area known as the Barolong Farms, as described in Schedule B to the Boundaries Proclamation (Cap. 37), and the Bamangwato, Batawana, Bakgatla, Bakwena, Bangwaketse, Bamalete and the Batlokwa Tribal Territories, as defined in the Tribal Territories Proclamation (Cap. 68), or any area which may be added thereto by law.

(2) The President<sup>2</sup> may from time to time by notice in the Gazette add to or otherwise amend the Schedule to this Proclamation

(1) amended by Proc. 16/1959

(2) amended by L.N. 84/1966

#### C.104

or security shall at any time fall short of the said value and the holder of the Livestock Buyer's Licence shall neglect or refuse to make up the deficiency, it shall be lawful for the President<sup>1</sup> to cancel such licence.

(3) Any deposit or security made or found under this section may be taken in execution in whole or in part for the purpose of satisfying the judgment of any competent Court within Botswana<sup>1</sup>, whereby the person who made such deposit or found such security shall be required to pay —

- (a) any sum, whether by way of debt, damages, costs or otherwise, to any person resident within Botswana<sup>1</sup> in respect of a transaction involving the purchase or acquisition of livestock in terms of section 4; or
- (b) any fine, compensation or award in respect of a contravention of any of the provisions of this Proclamation.

(4) In case of cancellation of a Livestock Buyer's Licence, or in case such a licence shall not be renewed upon the expiration thereof, the deposit or other security made or found in connection therewith, in so far as the same has not been appropriated under the last preceding sub-section, shall, within three months after such cancellation or expiration, be delivered back by the President<sup>1</sup> or other authorised officer upon due application being made therefor.

#### Free Licences.

8. (1) Licences under this Part may be issued free of charge to —

- (a) the holder of a fresh produce licence to purchase or otherwise acquire a specified number of livestock required for slaughter for the purpose of his business during the year;
- (b) a farmer, on first acquiring and wishing to stock a farm, provided that the licence shall not authorise the purchase or acquisition of livestock which would exceed the maximum carrying capacity of the farm, as assessed by the Director of Veterinary Services;
- (c) a farmer, for the purchase of fifty head of livestock per annum;
- (d) the holder of a general trading licence to purchase or otherwise acquire livestock at his licensed store provided that he may buy livestock at public sales, as defined in section 15, within the District in which his licensed store is situated;
- (e) such other person or class of persons, for such purposes and under such conditions as the Director of Veterinary Services may decide.

(2) Applications for free licences shall be submitted on the forms set out in the Schedule to this Proclamation.

(3) Any person to whom a free licence is issued shall be exempted from the provisions of section 7.

(1) amended by L.N. 84/1966

### **Licences to be Carried and Produced.**

9. Every person licensed under this Part to purchase or otherwise acquire livestock shall be required to carry his licence with him, and to produce it on request.

### **Touts.**

10. Any person who employs a tout and any person acting as a tout shall be guilty of an offence. For the purpose of this section a "tout" means any employee, other than an approved agent, who uses his influence to persuade prospective sellers to dispose of their cattle to his employer.

### **Returns.**

11. (1) Every holder of a licence under this Part shall within fifteen days after the end of each month render to the Director of Veterinary Services a return, in the form set out in the Schedule to this Proclamation, showing all purchases, acquisitions, sales, exchange or other disposals of livestock. Where no transactions are effected during the month a *nil* return shall be rendered. Any such holder who neglects or refuses to render such return or who renders a return which is false in any particular shall be guilty of an offence: Provided that the President<sup>1</sup> may if he thinks fit, by notice in the *Gazette*, suspend or vary from time to time the operation of this sub-section, and may, in his discretion, exempt certain licence holders from its requirements.

(2) A certificate under the hand of the Director of Veterinary Services or other officer authorised by him shall in any proceedings under this section be *prima facie* evidence of the facts stated therein, and it shall not be necessary to bring oral evidence of such facts unless the Court before which such proceedings are had specially direct, in which case a postponement may be allowed to enable the officer whose presence is required to attend.

### **All Livestock to be Branded after Purchase or Acquisition.**

12. (1) It shall be the duty of every person licensed under this Part within seventy-two hours after purchasing or otherwise acquiring any livestock and before removal of such livestock from the place of purchase or acquisition, to affix to each animal purchased or otherwise acquired the brand of which he is the registered proprietor, and for the purposes of this section the expression "brand" shall have the meaning assigned to it in section 2 of the Branding of Cattle Law, 1961 (Law 19/1961).

Provided that the President<sup>1</sup> may exempt persons licensed under section 8 (1) (e) from the requirements of this section, and from the requirements of section 6 (4).

(2) Any person who fails to comply with any of the requirements of this section shall be guilty of an offence.

## **C.106**

### **Offences.**

13. Any person who shall, whether on his own behalf or on behalf of any other person, directly or indirectly purchase or otherwise acquire or sell or dispose of any livestock within Botswana<sup>1</sup> in contravention of any of the provisions of this Part or in violation of the conditions of his licence shall be guilty of an offence.

### **Onus on Accused Persons.**

14. In any prosecution for an offence under this Part —

- (a) any livestock proved to have been purchased or otherwise acquired by any person within Botswana<sup>1</sup> shall be deemed to have been purchased or acquired by such person in contravention of the provisions of this Part unless and until the contrary is proved by such accused person; and where any livestock proved to have been in the possession of an accused person or persons cannot be accounted for by such accused person or persons to the satisfaction of the Court, such livestock may be deemed to have been disposed of illegally by such person or persons in contravention of section 5 (2).
- (b) any person required by this Part to have a licence shall be deemed to be without such licence, unless he shall produce the same on demand to any administrative officer, veterinary officer, stock inspector or police officer or to the Court or give other satisfactory proof of possessing the same.

### **Public Sales of Livestock**

15. It shall be lawful for the President<sup>1</sup> to appoint places in Botswana<sup>1</sup> where public sales of livestock may take place subject to such conditions as he may impose. Public sales of livestock may not be held within Botswana<sup>1</sup> without the written approval of the President<sup>1</sup>.

## **PART II**

### **EXPORT OF LIVESTOCK**

#### **Export by Registered Exporters and Registered Producers only on Export Permit.**

16. No person shall export or cause or permit to be exported from Botswana<sup>1</sup> any livestock unless he is the holder of a current certificate that he is a registered exporter or a registered producer, and is in possession of an export permit issued by the Director of Veterinary Services or an officer authorised by him, subject to such conditions as the President<sup>1</sup> may deem necessary.

#### **Restriction on Export of Breeding Stock.**

17. No person shall export from Botswana<sup>1</sup> any male or female horned cattle.

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(1) amended by L.N. 84/1966

sheep, goats, horses, donkeys or pigs suitable for breeding except under authority of a permit issued by the Director of Veterinary Services or an officer authorised by him.

**Application for Registration as Exporter or Producer.**

18. (1) Any person, corporation or association shown on the Government Stock Registers to be in possession of a minimum of ten head of cattle suitable for export or of twenty head of female breeding cattle or who is the holder of a licence issued under Part I may make application to be registered as an exporter. He shall give such information concerning his livestock as may be deemed necessary by the Director of Veterinary Services, and the Director of Veterinary Services or any officer authorised by him may issue to such applicant a certificate that he is a registered exporter.

(2) Any person who combines the business of breeding, rearing and maturing cattle for export may make application to be registered as a producer. He shall give such information concerning his livestock as may be deemed necessary by the Director of Veterinary Services, and the Director of Veterinary Services or any officer authorised by him may issue to such applicant a certificate that he is a registered producer.

(3) Certificates issued under this section shall expire on the thirty-first day of December next following the date of issue.

**Information to be Furnished on Demand.**

10. Every person shall, on demand by the Director of Veterinary Services or any officer authorised by him, give such information concerning the livestock in his possession or which has been in his possession as may be deemed necessary by the Director of Veterinary Services.

**Offences.**

20. (1) Any person who exports any livestock in contravention of any of the provisions of this Part shall be guilty of an offence.

(2) Any person who gives false information to the Director of Veterinary Services or his authorised officer shall be guilty of an offence.

**PART III**

**LEVY ON CATTLE EXPORTED**

**Levy on Cattle Exported.**

21. (1) Upon every head of cattle exported from Botswana<sup>1</sup> to the Johannesburg quarantine market or for realisation on the Johannesburg quarantine market

(1) amended by L.N. 84/1966

## C.108

or any such other market as may, by Notice in the *Gazette*, be specified by the President<sup>1</sup> there shall be imposed a levy of 50 cents or such other sum as the President<sup>1</sup> may from time to time by Notice in the *Gazette* determine.

(2) Notwithstanding the provisions of the preceding sub-section any person who holds a current certificate issued under Part II that he is a registered producer shall be entitled to a refund of the levy paid by him on any number of cattle bred, reared and matured by him, not exceeding fifty in each calendar year, equivalent to half the number of his female breeding cattle at the commencement of such calendar year.

### **Manner of Payment.**

22. The levy imposed by section 21 shall be payable to any administrative officer, veterinary officer, stock inspector, police officer or any other person authorised in writing by the President<sup>1</sup> to receive such levy, and such officer or other person shall give his receipt for the same; the production of which receipt at the port of exit shall be full and sufficient proof of payment of the levy on the said cattle.

### **Cattle Export Levy Fund.**

23. (1) The moneys derived from the levy on cattle exported, and paid into the Cattle Export Levy Fund established under the Cattle Export Tax Proclamation (Cap. 95), shall be used for the general benefit of the livestock industry in Botswana<sup>1</sup>.

(2) Any surplus moneys in such fund may be invested on such terms and conditions as the President<sup>1</sup> may decide.

(3) The President<sup>1</sup> shall appoint an Advisory Committee to advise him on all matters affecting the fund, its investment and disbursement.

### **Offence to Export without having Paid Levy.**

24. Any person not being a registered producer exporting under the provisions of section 21 (2) who shall export or attempt to export any cattle from Botswana<sup>1</sup> for realisation on the Johannesburg quarantine market or other specified market without having first paid thereon the levy imposed by section 21 (1) shall be guilty of an offence.

### **Sufficiency of Proof of Non-payment of Levy.**

25. In any prosecuting for exporting or attempting to export any cattle without having first paid the levy imposed by section 21 (1), proof that the accused person or any agent of the accused person who had charge of the cattle at the time of exportation or attempted exportation failed, on demand made by any member of the police force or by any of the officers or persons mentioned in section 22 to produce the receipt for such levy, shall be sufficient evidence that such levy has not been paid, unless and until the contrary is proved.

(1) amended by L.N. 84/1966

**Suspension of Levy.**

26. The President<sup>1</sup> may from time to time, by Notice in the *Gazette*, suspend the operation of this Part, and may by similar Notice revoke any such suspending Notice and declare that this Part shall again have force and take effect:

Provided that any such suspension shall not affect the validity of any act done or any proceedings pending at the date of such Notice or the recovery of any levy or penalty payable at such date.

**PART IV<sup>2</sup>****EXPORT OF THE PRODUCTS OF THE SLAUGHTERING OF LIVESTOCK AND THE LICENSING, ETC., OF EXPORT SLAUGHTER HOUSES****Export of Meat to be from Export Slaughter House or under Permit.**

27. (1) No person shall export or cause or permit to be exported from Botswana<sup>1</sup> any meat or other product (excluding any hide or skin) of the slaughtering of livestock unless —

(a) the meat or product is derived from livestock slaughtered at an export slaughter house and the exportation takes place directly from that export slaughter house; or

(b) the Director of Veterinary Services has given permission in writing therefor.

(2) No person shall carry on the business of slaughtering livestock for export otherwise than at an export slaughter house.

(3) The President<sup>1</sup> on application and at his discretion may licence any slaughter house as an export slaughter house and at his discretion at any time may revoke a licence so granted, and shall not be obliged to assign any reason for refusing to grant or for the revoking any such licence.

(4) In considering any application for the grant of a licence in terms of the preceding sub-section, the President<sup>1</sup> shall have regard *inter alia* to whether the slaughter house, together with any place used in connection therewith for keeping or subjecting products of the slaughtering of livestock to any treatment or process, has been constructed or adapted in conformity with the provisions of any relevant law for the time being in force in Botswana<sup>1</sup> or with any conditions attached to the President's<sup>1</sup> consent to construct or adapt the slaughter house given under section 28 (2) and may cause the slaughter house together with any place as aforesaid to be inspected by an officer of the public service of Botswana<sup>1</sup> for the purpose of ascertaining its suitability as an export slaughter house.

(5) Any person who wilfully contravenes any of the provisions of sub-sections (1) and (2) of this section shall be guilty of an offence and liable on

(1) amended by L.N. 84/1966 (2)

(2) Added by Proc. 16/1959 (1)



## **C.110**

conviction to a fine not exceeding R1000, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

### **Supplying Livestock to an Export Slaughter House.**

28. (1) No person shall supply any livestock to an export slaughter house unless —

- (a) he is registered as an export slaughter house supplier in terms of sub-section (3);
- (b) he has received a quota allocation from the Director of Veterinary Services authorising him to supply livestock to the particular export slaughter house in question.

(2) No person registered under sub-section (3) shall supply any livestock to an export slaughter house otherwise than in accordance with the terms of his quota.

(3) Any person qualified, in terms of sub-sections (1) or (2) of section 17, to be registered as an exporter or producer, may make application to the Director of Veterinary Services to be registered as an export slaughter house supplier, and the Director of Veterinary Services if satisfied as to that qualification shall register the applicant accordingly and shall issue him with a certificate to that effect.

(4) The Director of Veterinary Services may at any time cancel the registration of an export slaughter house supplier who in his opinion is no longer qualified to be registered, and the President<sup>1</sup>, by notice in the *Gazette*, may at any time order the cancellation of all registrations for the purpose of requiring fresh applications for registration to be made.

(5) Any person who wilfully contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R100, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(6) Any person who wilfully gives or causes to be supplied to the Director of Veterinary Services any false information in connection with an application for registration as an export slaughter house supplier in terms of this section shall be guilty of an offence and liable on conviction to a fine not exceeding R200, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

### **Construction of Slaughter House Capable of Use for the Export Trade.**

29. (1) For the purposes of this section a slaughter house which, together with any place used in connection therewith for keeping or subjecting products of the slaughtering of livestock to any treatment or process, has a total floor space exceeding one thousand square feet, shall be deemed to be a slaughter house capable of use for the export trade.

(2) No person shall construct or adapt any building or premises as a slaughter house capable of use for the export trade except in accordance with the prior written consent of the President<sup>1</sup> and in accordance with such terms and conditions as the President<sup>1</sup> may deem fit to impose.

(3) For so long as there is no law in force in Botswana<sup>1</sup> relating to the construction of slaughter houses —

(a) the President<sup>1</sup>, in considering any application for the grant of his consent in terms of the preceding sub-section, may require the applicant to produce to the President<sup>1</sup> such site plans, construction plans, and specifications relating to the proposed slaughter house as he may prescribe ;

(b) a person engaged in the construction or adaptation of a slaughter house capable of use for the export trade shall furnish the District Commissioner with not less than twenty-four hours' notice, in writing —

(i) of the date and time at which operations will be commenced ; and

(ii) before the covering up of any drain private sewer, concrete or other material laid over a site, foundation, or damp-proof course ;

and if such person neglects or refuses to give any such notice, he shall comply with any notice, in writing, of the President<sup>1</sup> requiring him within a reasonable time to cut into, lay open or pull down so much of the slaughter house, its works or fittings as prevents the President<sup>1</sup> from ascertaining whether any of the conditions attached to his consent given under sub-section (2) of this section have been observed ; and

(c) a person engaged in the construction or adaptation of a slaughter house capable of use for the export trade shall permit any officer of the public service authorised, in writing, for such purpose by the President<sup>1</sup> to enter upon and inspect operations at all reasonable times and to take such samples of the materials to be used in the construction or adaptation or in the installation of fittings as may be necessary in order to ascertain whether the conditions attached to the President's<sup>1</sup> consent given under sub-section (2) are being observed.

(4) Any person who contravenes the provisions of sub-section (2) shall be guilty of an offence and liable on conviction to a fine not exceeding R1000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(5) In any prosecution under this section the onus of proving that a building or premises in course of construction or adaptation is not being constructed or adapted as a slaughter house capable of use for the export trade shall be upon the accused.

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(1) amended by L.N. 84/1966

**C.114**

**Licence Fees.**

36. There shall be paid for such licence, by a person domiciled in Botswana<sup>1</sup>, the sum of R6 in respect of each calendar year or R3 in respect of a licence taken out after the thirtieth day of June in any one year, and by a person not domiciled in Botswana<sup>1</sup>, the sum of R6 for three months or any lesser period.

**Penalties and Onus of Proof.**

37. (1) Any person who contravenes any provision of section 23 or who fails to comply with any provision of section 34 or who contravenes or fails to comply with any condition endorsed on his licence under section 35 shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or to imprisonment for a period not exceeding six months, and if he is the holder of a licence under this Part the Court may, in addition to or in lieu of any other penalty, order the cancellation of such licence.

(2) In any prosecution under this section the onus of proving that any purchase or other acquisition of livestock produce was effected not for the purpose of trade but for private use shall be upon the accused.

**SCHEDULE**

**APPLICATION FOR FREE LICENCE BY A BUTCHER**

I certify that I am the holder of Fresh Produce Licence No. \_\_\_\_\_ issued  
in the \_\_\_\_\_ District. I hereby apply for a free licence  
to purchase or acquire the following livestock for slaughter and sale as meat,  
etc., within Botswana<sup>1</sup>:

**APPLICATION FOR FREE LICENCE BY A HAWKER**

I certify that I am the holder of Hawker's Licence No. \_\_\_\_\_ issued  
in the \_\_\_\_\_ District. I hereby apply for a free licence  
to purchase or acquire the following livestock for the period permitted by my  
licence within the area or areas specified below:

(1) amended by L.N. 84/1966

C.115

**APPLICATION FOR A FREE LICENCE BY A FARMER**

I certify that I am farming at \_\_\_\_\_ in the \_\_\_\_\_ District. I hereby apply for a free licence to purchase or acquire within the District or Districts set out below the following livestock for the purposes stated :

<i>Cattle</i>	<i>No.</i>	<i>Purpose</i>	<i>District or Districts in which livestock to be acquired</i>
Breedingstock .. .. .			
Tollies and Weaners .. .. .			
Treks .. .. .			
Stores .. .. .			
Feeders .. .. .			
Slaughter cattle .. .. .			

**APPLICATION FOR A FREE LICENCE BY A GENERAL TRADER**

I certify that I am the holder of General Trading Licence No. \_\_\_\_\_ issued in the \_\_\_\_\_ District. I hereby apply for a free licence to purchase or acquire livestock for the currency of the above licence within the \_\_\_\_\_ District in which my business premises are situated and in the following District or Districts for the reasons stated below :

C.116

**RETURN OF STOCK PURCHASES, SALES, ETC., UNDER SECTION 10**

I hereby notify that during the month of \_\_\_\_\_ the following purchases, acquisitions, sales, exchanges or other disposals of stock were effected by me or on my behalf:

<i>Date</i>	<i>Place</i>	<i>Species No.</i>	<i>Sold to or exchanged with</i>	<i>Purchased or acquired from</i>	<i>Permit No.</i>

When transactions with Africans are recorded the Chief's or District Officer's permit number must be recorded.

186 of 1945.  
126 of 1953.  
19 of 1958.

**CONTROL OF LIVESTOCK INDUSTRY**

**Notice No. 186 of 1945**

The Pretoria Abattoirs shall be a market in terms of section 21 (1) of the Proclamation with effect from the 1st October, 1945.

**Notice No. 126 of 1953**

The operation of section 11 (1) of the Proclamation was suspended from operation from 13th August, 1953, until further notice.

**Notice No. 19 of 1958**

All certificates of registration as supplier to the Lobatsi Abattoir in force on 18th July, 1958, were withdrawn, in terms of section 28 (2) of the Proclamation.

**THE HIDES AND SKINS EXPORT PROCLAMATION  
(CHAPTER 178)**

as amended by

**THE GENERAL LAW (TAXATION PROVISIONS) AMENDMENT LAW, 1961**  
(No. 21 of 1961)  
(Promulgated 1st January, 1962)

and

**THE HIDES AND SKINS EXPORT (AMENDMENT) LAW, 1963**  
(No. 16 of 1963)  
(Promulgated 31st December, 1963)

and

**THE VARIATION OF EXPORT DUTY ORDER**  
(Government Notice No. 26 of 1964)  
(Date of Commencement 1st January, 1964)

and

**THE CONSTITUTION AMENDMENT (ADAPTATION OF EXISTING  
LAWS) ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 3rd March, 1966.

**C.120**

have occurred be forfeited to the Government, whereupon such calf-skins, hides or skins shall be disposed of in accordance with directions issued by the Director of Veterinary Services.

**SCHEDULE <sup>1</sup>**

(Section 3A.)

The rates of export duty shall be —

Wet salted hides	....	....	....	....	....	....	....	<sup>1</sup> / <sub>4</sub> c per lb. <sup>2</sup>
Calf-skins, skins and dry hides	....	....	....	....	....	....	....	<sup>1</sup> / <sub>2</sub> c per lb. <sup>2</sup>

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(1) inserted by Law 21/1961

(2) amended by G.N. 26/1964.

**THE SUBORDINATE COURTS PROCLAMATION**  
(Chapter 5)  
as amended by  
**THE SUBORDINATE COURTS (AMENDMENT) PROCLAMATION, 1959**  
(No. 49 of 1959)  
(Date of Effect 1st September, 1959)  
and  
**THE SUBORDINATE COURTS (AMENDMENT) PROCLAMATION, 1961**  
(No. 28 of 1961)  
(Promulgated 26th April, 1961)  
and  
**THE SUBORDINATE COURTS (AMENDMENT NO. 2) PROCLAMATION, 1961**  
(No. 42 of 1961)  
(Date of Effect 1st June, 1961)  
and  
**THE 1959 REVISED EDITION OF THE LAWS (CORRECTION) LAW, 1962**  
(No. 39 of 1962)  
(Date of Effect 12th August, 1960)  
and  
**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1963**  
(Order of Her Majesty's Commissioner No. 1 of 1963)  
(Date of Effect 16th October, 1963)  
and  
**THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964**  
(No. 28 of 1964)  
(Promulgated 19th November, 1964)  
and  
**THE SUBORDINATE COURTS (AMENDMENT) LAW, 1964**  
(No. 32 of 1964)  
(Date of Effect 4th March, 1966)  
and  
**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Effect 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint : 3rd March, 1967.



C.122

BOTSWANA  
**THE SUBORDINATE COURTS PROCLAMATION**  
(CHAPTER 5)

ARRANGEMENT OF SECTIONS

*Section.*

**PART I**

PRELIMINARY

1. Short Title
2. Interpretation

**PART II**

COURTS

3. Constitution of Courts
4. Who may Hold Courts
5. Local Limits of Jurisdiction
6. Nature of Subordinate Courts, and Force and Effect of Process
7. Courts to be Open to the Public
8. Public Access to Records
9. Clerk of the Court
10. Messenger of the Court
11. Service of Process by the Police
12. Messenger's Return to be Evidence
13. Suspension of Messenger for Misconduct
14. Officers Appointed Previously to Remain in Office

**PART III**

CIVIL MATTERS

**Civil Jurisdiction**

15. Jurisdiction in Respect of Persons
16. Jurisdiction in Respect of Causes of Action
17. Arrests and Interdicts

18. Curator ad Litem
19. Assessors
20. Transfer from One Court to Another
21. What Judgments may be Rescinded
22. Incidental Jurisdiction
23. Abandonment of Part of Claim
24. Deduction of Admitted Debt
25. Splitting of Claims Disallowed
26. Jurisdiction Cumulative
27. Application of Sections 18 to 25 to Claims in Reconvention
28. Jurisdiction by Consent of Parties
29. Matters Beyond Jurisdiction of Subordinate Courts
30. Counterclaim Exceeding Jurisdiction
31. Judgment
32. Removal of Actions to Higher Court
- 32A. Return of Civil Proceedings<sup>1</sup>

**Witnesses and Evidence in Civil Actions.**

33. Modes of Procuring Attendance of Witnesses and Penalty for Non-Attendance
34. Interrogatories
35. Commissions De Bene Esse

**Execution.**

36. Jurisdiction of Courts to Issue Execution
37. Superannuation of Judgments and Revival Thereof, and Force of Warrants of Execution
38. Setting Aside of Warrant
39. Execution in Case of Judgment Debt Ceded
40. Manner of Execution
41. Property Exempt from Execution
42. Property Executable
43. Interpleader Claims
44. Sale in Execution gives Good Title
45. Surplus after Execution
46. Debt, Salary or Wages may be attached
47. Future and Accruing Earnings, when Attachable
48. Jurisdiction to Decide Disputes Arising out of Garnishee Orders
49. Execution or Payment as Discharge pro tanto
50. Saving of Existing Law Prohibiting Attachment of Certain Property
51. Order for Payment by Instalments
52. Execution or Suspension in Case of Appeal

(1) Inserted by Proclamation 42/1961

## **C.124**

### **Civil Imprisonment.**

- 53. Summons for Civil Imprisonment
- 54. Decree of Civil Imprisonment
- 55. Debtor may show that he has Executable Property
- 56. Period of Imprisonment
- 57. Costs of Civil Imprisonment
- 58. Custody by Gaoler
- 59. Discharge from Imprisonment
- 60. Effect of Discharge from Imprisonment
- 61. Warrant of Civil Imprisonment may be Suspended by Court

### **Appeals.**

- 62. By Consent Decision of Subordinate Court may be Final
- 63. Appeals from Subordinate Courts
- 64. Time, Manner and Conditions of Appeal
- 65. Right of Appeal Not Lost by Satisfaction of Judgment
- 66. Respondent may Abandon Judgment
- 67. Powers of High Court on Appeal
- 68. Execution of Judgment of High Court on Appeal

## **PART IV**

### **CRIMINAL MATTERS**

#### **Criminal Jurisdiction.**

- 69. Jurisdiction in Respect of Classes of Crime and Offences
- 70. Local Limits of Jurisdiction
- 71. Jurisdiction in the Matter of Punishment
- 71A. Extension of Criminal Jurisdiction of Specified Officers<sup>1</sup>
- 72. When Summary Trial to be Turned into Preparatory Examination
- 72A. Return of Criminal Proceedings<sup>1</sup>

#### **Remittal.**

- 73. Cases Remitted for Trial or Sentence
- 74. Jurisdiction in Respect of Punishments in Remitted Cases

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(1) Inserted by Proclamation 42/1961

**Review as of Course.**

- 75. Review of Sentences Imposed by a Subordinate Court of the Third Class
- 76. What Sentences Subject to Automatic Review by the High Court
- 77. Submission of Records and Remarks to Reviewing Officer or Judge for Consideration
- 78. Proceedings on Review

**Execution of Sentences.**

- 79. Warrant Required for Commitment to Prison
- 80. Execution of Sentence Suspended Under Certain Conditions
- 81. Person Sentenced to Whipping to be Detained Pending Review

**Criminal Appeals.**

- 82. Appeals
- 83. Appeal by Prosecutor

**PART V**

**OFFENCES**

- 84. Penalty for Disobedience of Order of Court
- 85. Offences Relating to Execution
- 86. Custody and Punishment for Contempt of Court

**PART VI**

**GENERAL AND SUPPLEMENTARY**

- 87. Jurisdiction as to Plea of Ultra Vires
- 88. Amendment of Proceedings
- 89. Review of Decisions
- 90. Savings and Non-Application of Proclamation
- 91. Saving of Pending Proceedings
- 92. Saving Existing Custom of Summoning Africans
- 93. Power of President to make Rules
- 94. Administration of Oath or Affirmation
- 94A. Protection from Actions<sup>1</sup>

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(1) Inserted by Proclamation 42/1961

**(CHAPTER 5)**  
**SUBORDINATE COURTS**

*To make provision for Subordinate Courts and for the jurisdiction and duties of  
Officers presiding over such Courts*

51 of 1938  
53 of 1947  
Cap. 4  
  
65 of 1951  
78 of 1954  
97 of 1955  
2 of 1957  
49 of 1959  
28 of 1961  
42 of 1961  
39 of 1962  
28 of 1964  
32 of 1964

**PART I**

**PRELIMINARY**

**Short Title.**

1. This Proclamation may be cited as the Subordinate Courts Proclamation.

**Interpretation**

2. In this Proclamation, unless inconsistent with the context —  
(Attorney-General)<sup>1</sup>

“Court” means a Subordinate Court as established under this Proclamation;

“District” means one of the several areas prescribed under section four of the General Administration Proclamation; and in relation to any Subordinate Court means the district or sub-district or area within which that court has jurisdiction;

“High Court” means the High Court of Botswana<sup>2</sup> established under the High Court Proclamation;

“Immovable property” includes every right or interest to and in any buildings and other fixtures erected within Botswana<sup>2</sup> with the consent express or implied of the Government;

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(1) Deleted by Order of H M C. 1/1963

(2) Amended by L.N. 84/1966

- “Judge” means a Judge of the High Court;
- “Judgment” in civil cases includes a sentence, decree, rule or order;
- “Judicial Officer” includes any officer or person entitled or appointed, under section *four*, to hold a court;
- “Offence” means an act or omission punishable by law or by a regulation or order made and in force under any Proclamation, Law or Act;
- “Rules” means rules in force under section *ninety-three* of this Proclamation;
- “Sheriff” means any officer duly appointed to execute the sentences, decrees, judgments, writs, summonses, rules, orders, commands and processes of the High Court, and includes a Deputy Sheriff;
- “Subordinate Court” means a Subordinate Court as constituted by this Proclamation.

## PART II

### COURTS

#### Consitution of Courts

3. There shall be and are hereby constituted Courts subordinate to the High Court, to be known as “Subordinate Courts” as follows, namely —

- (1) Subordinate Courts of the First Class;
- (2) Subordinate Courts of the Second Class; and
- (3) Subordinate Courts of the Third Class.

#### Who may hold Courts

4. (1)(a) Every Senior District Officer and every District Commissioner may hold a court of the First Class;

(b) Every District Officer may hold a court of the Second Class; and

(c) Every Cadet or District Assistant<sup>1</sup> may hold a court of the Third Class, within any district of Botswana<sup>2</sup>.

(2) The President<sup>2</sup> may, with the concurrence of the Chief Justice, by notice in the *Gazette* appoint —

- (a) any person as a magistrate or assistant magistrate to hold a Subordinate Court of a class to be specified in such notice;

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(1) Amended by Law 32/1964

(2) Amended by L.N. 84/1966

## C.128

- (b) any District Officer to hold a Subordinate Court of the First Class, or any Cadet or District Assistant<sup>1</sup> to hold a Subordinate Court of the Second Class;

and any appointment made in terms of this sub section shall be deemed to confer jurisdiction to hold such court within any district of Botswana<sup>2</sup>, unless otherwise stated in such notice.

### Local Limits of Jurisdiction

5. The local limits of the jurisdiction of any Subordinate Court of the First, Second or Third Class shall be the district within which such Court is situated, and (without derogating from the jurisdiction of the Courts therein) within such part of any adjoining district as the President<sup>2</sup> may prescribe by notice in the *Gazette*: Provided that where an Assistant District Officer or a Cadet is placed in charge of a sub-district or of any portion of a district he shall exercise jurisdiction only within that sub-district or portion of a district.

### Nature of Subordinate Courts, and Force and Effect of Process

6. (1) Every Subordinate Court shall be a court of record.

(2) Every summons, subpoena, writ, warrant or other process issued out of any Subordinate Court shall be of force throughout the district, and all such process when endorsed by a judicial officer of any other district (and every judicial officer is hereby required on production to him of any such process to endorse the same) shall be of force throughout the district for which such judicial officer is appointed, and may be served or executed therein through the messenger of such last-mentioned district or of the court out of which such process is issued.

### Courts to be Open to the Public

7. (1) Subject to the exceptions provided in this Proclamation or in any other law in force in Botswana<sup>2</sup>, the proceedings in Subordinate Courts in all criminal cases and the trial of all defended civil actions shall be carried on in open court, and not otherwise, and the evidence shall be recorded in the English language.

(2) The trial of any child who is, in the opinion of the court, less than 16 years of age may be held *in camera* and in some other place than an ordinary court room: Provided that in such case the parent or guardian of such child shall have the right to be present.

(3) The court may in any case, in the interest of good order or public morals, direct that a trial shall be held with closed doors, or that (with such exceptions as the court may direct) females or minors or the public generally shall not be permitted to be present.

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(1) Inserted by Proclamation 42/1961

(2) Amended by L.N. 84/1966

(4) If any person present in court disturbs the peace or order thereof, the court may order that person to be removed or detained in custody until the rising of the court, or, if in the opinion of the court peace cannot otherwise be secured, may order the court room to be cleared and the doors thereof to be closed to the public.

(5) Except where it may otherwise be provided by law, every witness in a criminal case shall deliver his evidence *viva voce* and in open court: Provided that where any witness is unable on account of ill health or advanced age to attend the court, his evidence may be taken in the presence of the presiding officer, the prosecutor, the accused person, and the legal representative (if there be such representative and he chooses to attend) of the accused person at such place as may seem to the court most convenient.

#### **Public Access to Records**

8. The records and proceedings of the court shall in all cases be accessible to the public under the supervision of an officer of the court at convenient times and upon payment of such fees as may be prescribed by the rules: Provided that after a period of thirty years has expired from the date of judgment in such proceedings, the President<sup>1</sup> may order the removal of such records and proceedings to a central place of custody.

### **OFFICERS OF THE COURTS**

#### **Clerk of the Court**

9. (1) There may be appointed for every court so many clerks of the court and assistant clerks of the court as may be necessary.

(2) A refusal by the clerk of the court to do any act which he is empowered by this Proclamation to do shall be subject to review by the court on application either *ex parte* or on notice, as the circumstances may require.

#### **Messenger of the Court**

10. (1) Any officer empowered under section 4 to hold a court may, subject to the approval of the President<sup>1</sup>, appoint a messenger of the court, subject to such conditions as to remuneration and tenure of office as the President<sup>1</sup> may determine.

(2) The messenger may, with the prior approval of the presiding officer of the court, appoint one or more deputy messengers, for whom he shall be responsible.

<sup>(1)</sup> Amended by L.N. 84/1966



## **C.130**

(3) Whenever in any matter objection is made to the service or execution of process by the messenger or his deputy by reason of the interest of either of them in such matter or of the relation of either of them to a party to such matter or of any other good cause of challenge, or whenever, by reason of the illness or absence of the messenger, it is necessary to appoint an acting messenger, the presiding officer may appoint a person so to act.

### **Service of Process by the Police**

11. Whenever process of the court in a civil case is to be served and no messenger or deputy messenger has been appointed at the place where the court is held, or whenever process of the court in a criminal case is to be served, a member of the Botswana<sup>1</sup> Police shall be as qualified to serve all such process and all other documents in such a case as if he had been duly appointed deputy messenger. The fees payable in respect of or in connection with any such service shall be accounted for by means of revenue stamps affixed to the relative documents.

### **Messenger's Return to be Evidence**

12. The written return of a messenger or of any person authorised to perform any of the functions of a messenger to any process of the court shall be *prima facie* evidence of the matters therein stated.

### **Suspension of Messenger for Misconduct**

13. A messenger who is alleged to have been negligent or dilatory in the service or execution of process, or to have knowingly or wilfully demanded payment of more than his proper fees or expenses, or to have made a false return, or in any other manner to have misconducted himself in connection with his duties, may, pending investigation, be suspended from office and profit by the presiding officer, who may appoint a person to act in his place during the period of suspension. The presiding officer shall report forthwith to the President<sup>1</sup> any action he has taken under this section, and the President<sup>1</sup> may, after investigation, set aside the order of suspension or may confirm it and may also dismiss from his office the messenger who has been so suspended.

### **Officers Appointed Previously to Remain in Office**

14. Every officer of the court holding office immediately prior to the commencement of this Proclamation shall be deemed to be duly appointed under this Proclamation and shall be invested with power, duties and authority accordingly.

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(1) Amended by L.N. 84/1966

**PART III**

**CIVIL MATTERS**

*CIVIL JURISDICTION*

**Jurisdiction in Respect of Persons**

15. Saving any other jurisdiction assigned to any courts by this Proclamation or by any other law the persons in respect of whom the court shall have jurisdiction shall be —

- (a) any person who resides, carries on business, or is employed within the district;
- (b) any partnership whose business premises are situated or any member whereof resides within the district;
- (c) any person whatever, in respect of any proceedings incidental to any action or proceeding instituted in the court by such person himself;
- (d) any person, whether or not he resides carries on business, or is employed within Botswana, if the cause of action arose wholly within the district;
- (e) any party to interpleader proceedings, if —
  - (i) the execution creditor and every claimant to the subject-matter of the proceedings reside, carry on business, or are employed within the district; or
  - (ii) the subject-matter of the proceedings has been attached by process of the court;
- (f) any defendant (whether in convention or reconvention) who appears and takes no objection to the jurisdiction of the court.

**Jurisdiction in Respect of Causes of Action**

16. (1) The civil jurisdiction in respect of causes of action of Subordinate Courts constituted under this Proclamation shall be :

- (a) Courts of the First Class.  
All actions where the claim or value of the matter in dispute does not exceed R1,000.
- (b) Courts of the Second Class.  
All actions where the claim or value of the matter in dispute does not exceed R500.

## C. 132

### (c) Courts of the Third Class.

All actions where the claim or value of the matter in dispute does not exceed R100.

Provided that when both parties are Africans and the cause of action is in the opinion of the Clerk of the Court one suitable to be heard in an African Court of appropriate jurisdiction established or recognised under the law relating to African Courts, the Clerk of the Court may refuse to issue summons and may order the plaintiff to commence his action in such African Court.

Provided further than at any time after the issue of summons commencing action in any case where both parties are Africans the court may order that the action be transferred to an African Court of appropriate jurisdiction established or recognised under the law relating to African Courts.

(2) The civil jurisdiction of Subordinate Courts constituted under this Proclamation in respect of proceedings brought under the provisions of sections *twenty-seven, twenty-nine and thirty-two* of the African Courts Proclamation, shall be:

#### (a) Courts of the First Class.

All such matters.

#### (b) Courts of the Second Class.

All such matters where the claim or judgment, as the case may be, or the value thereof, does not exceed R500.

## Arrests and Interdicts

17. (1) Subject to the limits prescribed by this Proclamation, Subordinate Courts of the First and Second Class may grant against persons and things orders for arrest *tanquam suspectus de fuga*, attachments, interdicts and *mandament van spolie*.

(2) Confirmation by the court of any such attachment or interdict in the judgment in the action shall operate as an extension of the attachment or interdict until execution or further order of the court.

(3) No order of personal arrest *tanquam suspectus de fuga* shall be made unless the following conditions are complied with, i.e. unless:

- (a) the cause of action appears to amount, exclusive of costs, to at least R40 ; and
- (b) the applicant appears to have no security for the debt, or only security falling short of the amount of the debt by at least R40 ; and
- (c) it appears that the respondent is about to remove from Botswana.

**Curator Ad Litem**

18. The court may appoint a *curator ad litem* in any case in which such a curator is required or allowed by law for a party to any proceedings brought or to be brought before the court.

**Assessors**

19. In any action the court may summon to its assistance one or more persons to sit and act as assessors in an advisory capacity.

**Transfer from One Court to Another**

20. An action or proceeding may, with the consent of all the parties thereto, or upon the application of any party thereto, and upon its being made to appear that the trial of such action or proceeding in the court wherein summons has been issued may result in undue expense or inconvenience to such party, be transferred by the court to any other court of the same class or of a higher class than the court from which it is desired to remove the proceedings.

**What Judgments May be Rescinded**

21. (1) The court may, on the application of the party in whose favour a judgment has been given, rescind or vary such judgment in the absence of the party against whom the judgment was granted, provided such last-mentioned party has received notice of the application and has been given an opportunity to appear at the hearing of the same.

(2) The court may rescind or vary any judgment granted by it which was void *ab origine* or was obtained by fraud or by mistake common to the parties.

(3) The court may correct patent errors in any judgment in respect of which no appeal is pending.

(4) The court may rescind or vary any judgment in respect of which no appeal lies.

**Incidental Jurisdiction**

22. (1) In actions wherein the sum claimed, being within the jurisdiction, is the balance of an account, the court may enquire into and take evidence if necessary upon the whole account, even though such account contains items and transactions exceeding the amount of the jurisdiction.

(2) Where the amount claimed or other relief sought is within the jurisdiction, such jurisdiction shall not be ousted merely because it is necessary for the court, in order to arrive at a decision, to give a finding upon a matter beyond the jurisdiction.

## **C.134**

(3) In considering whether a claim is or is not within the jurisdiction, no prayer for interest on the principal sum claimed or for costs or for general or alternative relief shall be taken into account.

### **Abandonment of Part of Claim**

23. (1) In order to bring a claim within the jurisdiction, a plaintiff may, in his summons or at any time thereafter, explicitly abandon part of such claim.

(2) If any part of a claim be so abandoned it shall be thereby finally extinguished: Provided that if the claim be upheld in part only, the abandonment shall be deemed first to take effect upon that part of the claim which is not upheld.

### **Deduction of Admitted Debt**

24. In order to bring a claim within the jurisdiction, a plaintiff may, in his summons or at any time after the issue thereof, deduct from his claim, whether liquidated or unliquidated, any amount admitted by him to be due by himself to the defendant.

### **Splitting of Claims Disallowed**

25. A substantive claim exceeding the jurisdiction may not be split with the object of recovering the same in more than one action, if the parties to all such actions would be the same and the point at issue in all such actions would also be the same.

### **Jurisdiction Cumulative**

26. (1) If two or more claims, each based upon a different cause of action, are combined in one summons, the court shall have the same jurisdiction to decide each such claim as it would have had if each claim had formed the sole subject of a separate action.

(2) If a claim for the confirmation of an interdict or arrest granted *pendente lite* be joined in the same summons with a claim for relief of any other character, the court shall have the same jurisdiction to decide each such claim as it would have had if each claim had formed the sole subject of a separate action, even though all the claims arise from the same cause of action.

### **Application of Sections Eighteen to Twenty-Five to Claims in Reconvention**

27. In sections *nineteen* to *twenty-six* inclusive, "action", "claim", and "summons" include "claim in reconvention"; and "plaintiff" and "defendant" include "plaintiff in reconvention" and "defendant in reconvention" respectively.

### **Jurisdiction by Consent of Parties**

28. Subject to the provisions of the next succeeding section, the court shall have jurisdiction to determine any action or proceeding otherwise beyond the jurisdiction, if the parties consent in writing thereto.

### **Matters beyond Jurisdiction of Subordinate Courts**

29. Subordinate Courts shall have no jurisdiction in matters:

- (a) in which the dissolution of a marriage or separation from bed and board or of goods of married persons is sought;<sup>1</sup>
- (b) in which the validity or interpretation of a will or other testamentary document is in question;
- (c) in which the status of a person in respect of mental capacity is sought to be affected;
- (d) in which is sought the specific performance of an act without an alternative of payment of damages (except the rendering of an account in respect of which the claim does not exceed an amount within the jurisdiction of the court, or the delivery or transfer of property not exceeding in value the jurisdiction of the court);
- (e) in which is sought a decree of perpetual silence;
- (f) in which provisional sentence is sought.

### **Counterclaim Exceeding Jurisdiction**

30. (1) When in answer to a claim within the jurisdiction the defendant sets up a counterclaim exceeding the jurisdiction, the claim shall not on that account be dismissed; but the court may, if satisfied that the defendant has a reasonable prospect of recovering an amount exceeding the jurisdiction, stay the action for a reasonable period in order to enable him to institute an action in a competent court. The plaintiff in the court in which the action was originally instituted may (notwithstanding his action therein) counterclaim in such competent court, and in that event all questions as to the costs incurred shall be decided by that competent court.

(2) If the period for which such action has been so stayed has expired and the defendant has failed to issue and serve a summons in a competent court in relation to the matters the subject of such counterclaim, the court in which the action was originally instituted shall, upon application, either;

- (a) stay the action for a further reasonable period; or
- (b) dismiss the counterclaim (whether the defendant does or does not reduce such counterclaim to an amount within the jurisdiction of the court).

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(1) Amended by Law 28/1964

## C.136

(3) If the defendant has failed to institute action within such further period, or if the action instituted by the defendant be stayed, dismissed, withdrawn, or abandoned, or if the competent court has granted absolution from the instance thereon, the court in which the action was originally instituted shall, upon application, dismiss the counterclaim and shall proceed to determine the claim.

### Judgment

31. The court may, as the result of the trial of an action, grant :

- (a) judgment for the plaintiff in respect of his claim in so far as he has proved the same ;
- (b) judgment for the defendant in respect of his defence in so far as he has proved the same ;
- (c) absolution from the instance, if it appears to the court that the evidence does not justify the court in giving judgment for either party ;
- (d) such judgment as to costs as may be just.

### Removal of Actions to Higher Court

32. (1) Any action in a Second Class Subordinate Court in which the amount of the claim exceeds R200, exclusive of interest and costs, may, upon application to the court by the defendant or any one of the defendants (if there be more than one defendant) , be removed to a First Class Subordinate Court.

(2) Subject to the terms of the proviso to section *four* of the High Court Proclamation, any action in a First Class Subordinate Court or a Second Class Subordinate Court in which the claim exceeds R400, exclusive of interest and costs, may, upon application to the court by the defendant or any one of the defendants (if there be more than one defendant) , be removed to the High Court.

(3) The removal of any action in terms of sub section (1) or (2) shall be subject to the following conditions and provision :

- (a) Notice of intention to make such application shall be given to the plaintiff and to other defendants (if any) before the date on which the action is set down for hearing ;
- (b) the notice shall state that the applicant objects to the action being tried by a Second Class Subordinate Court or any Subordinate Court, as the case may be ;
- (c) the applicant shall give such security as the court may determine and approve, for payment of the amount claimed and such further amount to be determined by the court, not exceeding R200, for costs already incurred in

the action and which may be incurred in the court to which the action is removed.

Upon compliance by the applicant with the conditions in this section prescribed, all proceedings in the action in the court shall be stayed, and the action and all proceedings therein shall, if the plaintiff so requires, be, as to the defendant or defendants, forthwith removed from the court into a First Class Subordinate Court or into the High Court, as the case may be. Upon the removal, the summons in the court shall, as to the defendant or defendants, stand as the summons in the court to which the action is removed:

Provided that the plaintiff in the action may, instead of requiring the action to be so removed, issue a fresh summons against the defendant or defendants in a First Class Subordinate Court or in the High Court, as the case may be, and the costs already incurred by the parties to the action shall be costs in the cause.

#### **Return of Civil Proceedings<sup>(1)</sup>**

32A. (1) At such intervals as the Chief Justice may require every Subordinate Court shall forward to the High Court, in such form as the Chief Justice may from time to time direct a complete list of all civil matters decided by, pending in, or brought before such court during such interval.

(2) The Chief Justice may require separate lists in respect of individual judicial officers or separate lists in respect of specified classes of judicial officers.

### **WITNESSES AND EVIDENCE IN CIVIL ACTIONS**

#### **Modes of Procuring Attendance of Witnesses and Penalty for Non-Attendance**

33. (1) Any party to any civil action or other proceeding where the attendance of witnesses is required may procure the attendance of any witness (whether residing or for the time being within the district or not) in the manner in the rules provided.

(2) (a) If any person, being duly subpoenaed to give evidence or to produce any books, papers or documents in his possession or under his control, which the party requiring his attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce those books, papers or documents according to the subpoena, or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied upon oath or by the written return of the messenger that such person has been duly subpoenaed and that his reasonable expenses have been paid or offered to him, impose upon the said person a fine, not exceeding R50, for his default, and in default of payment imprisonment for a period not exceeding one month.

(1) Inserted by Proclamation 42/1961



## C.138

- (b) If any person so subpoenaed shall fail to appear or, unless duly excused, to remain in attendance throughout the trial, the court may also, upon being satisfied as aforesaid and in case no lawful excuse for such failure shall seem to the court to exist, issue a warrant for his apprehension in order that he may be brought up to give his evidence and to be otherwise dealt with according to law.
- (c) The court may, on cause shown, remit the whole or any part of any fine or imprisonment which it may have imposed under this sub section.
- (d) The court may order the costs of any postponement or adjournment occasioned by the default of a witness, or any portion of such costs, to be paid out of any fine imposed upon such witness.

### Interrogatories

34. (1) Whenever a witness resides or is in a district other than that wherein the case is being heard, the court may, if it appears to be consistent with the ends of justice, upon the application of either party approve of such interrogatories as either party shall desire to have put to such witness and shall transmit the same, together with any further interrogatories framed by the court, to the court of the district within which such witness resides or is.

(2) The last-mentioned court shall thereupon subpoena such witness to appear, and upon his appearance shall take his evidence in manner and form as if he were a witness in a case pending before that court, and shall put to the witness the said interrogatories and such other questions as may seem to it necessary to obtain full and true answers to the interrogatories, and shall record the evidence of the witness and shall transmit such record to the court in which such case is pending. The said record shall (subject to all lawful objections) be received as evidence in that case.

(3) Every witness so subpoenaed to appear shall be liable to the like penalties in case of non-attendance or failure to give evidence or to produce books, papers or documents as if he had been subpoenaed to give evidence in the court of the district in which he resides or is.

### Commissions De Bene Esse

35. (1) The court may in any case which is pending before it, where it may be necessary or expedient and consistent with the ends of justice so to do, appoint a person to be a commissioner to take the evidence of any witness, whether within Botswana<sup>1</sup> or elsewhere, upon the request of one of the parties to such case and after due notice to the other party.

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(1) Amended by L.N. 84/1966

(2) The person so appointed shall put to such witness such questions as have been transmitted to him on agreement between the parties, or otherwise shall allow the parties to examine such witness, and shall be permitted himself to examine such witness as if the witness were being examined in court, and shall record the evidence or cause it to be recorded, whereupon the evidence taken down shall be read over to the witness and shall be signed by him.

(3) The said record shall (subject to all lawful objections) be received in evidence in the case.

## EXECUTION

### **Jurisdiction of Courts to Issue Execution**

36. Any court which has jurisdiction to try any action against any party thereto shall have jurisdiction to issue against any party thereto any form of process in execution of its judgment in such action.

### **Superannuation of Judgments and revival thereof, and force of Warrants of Execution**

37. (1) A judgment shall become superannuated by the lapse of three years from the day on which it was pronounced, and execution against property may not thereafter be issued upon it; but it may be revived for the purpose of the issue of such execution on the application and at the expense of the judgment creditor, after due notice to the judgment debtor to show cause why it should not be revived, either in the court in which judgment was pronounced or in any court having jurisdiction in respect of the judgment debtor.

(2) A warrant of execution once issued shall remain of force until the judgment on account of which it was issued has been satisfied.

### **Setting Aside of Warrant**

38. The court may, on good cause shown, stay or set aside any warrant of execution or arrest issued by such court.

### **Execution in Case of Judgment Debt Ceded**

39. Any person who has, either by cession or by operation of law, become entitled to the benefit of a judgment debt may, after notice to the judgment creditor and the judgment debtor, be substituted on the record for the judgment creditor and may obtain execution or process in aid in the manner provided for judgment creditors.

### **Manner of Execution**

40. (1) Whenever a court gives judgment for the payment of money the amount shall be recoverable, in case of failure to pay the same forthwith or at the time or times and in the manner ordered by the court, by execution against the movable

## C.140

property and, if there be not found sufficient movable property to satisfy the judgment, then against the immovable property of the party against whom such judgment has been given.

(2) Where it is required that immovable property subject to any claim ranking in priority to that of the judgment creditor be sold in execution such property shall be sold only through the sheriff after process in aid to that end shall have been granted by the High Court.

### Property Exempt from Execution

41. In respect of any process of execution issued out of any court, the following property shall be protected from seizure and shall not be attached or sold, to wit:

- (a) The necessary beds, bedding and wearing apparel of the person against whose property execution is levied and of his family;
- (b) the necessary furniture and household utensils in so far as the same do not exceed in value the sum of R30;
- (c) the supply of food and drink in the house sufficient for the needs of such person and of his family during one month;
- (d) tools and implements of trade, and tools necessarily used in the cultivation of land, in so far as any such tools or implements do not exceed in value the sum of R40;
- (e) professional books, documents, or instruments, necessarily used by such person in his profession, in so far as the same do not exceed in value the sum of R40;

### Property Executable

42. (1) The messenger executing any process of execution against movable property may, by virtue of such process, also seize and take any money or bank notes, and may seize, take and sell in execution cheques, bills of exchange, promissory notes, bonds or securities for money belonging to any person against whom any such execution shall have been issued as aforesaid.

(2) The messenger may also hold any cheques, bills of exchange, promissory notes, bonds or securities for money which shall have been seized or taken, as security for the benefit of the execution creditor for the amount directed to be levied by the execution so far as it is still unsatisfied; and the execution creditor may, when the time of payment shall have arrived, sue in the name of the execution debtor, or in the name of any person in whose name the execution debtor might have sued, for the recovery of the sum secured or made payable thereby.

(3) The messenger may also under any process of execution against movable property attach and sell in execution the interest of the execution debtor in any movable property belonging to him and pledged or sold under a suspensive condition to a third person, and may also sell the interest of the execution debtor in property movable or immovable leased to the execution debtor or sold to him under any hire purchase contract or under a suspensive condition.

(4) Whenever, if the sale had not been in execution, it would have been necessary for the execution debtor to endorse a document or to execute a cession in order to pass the property to a purchaser, the messenger may so endorse the document or execute the cession, as to any property sold by him in execution.

(5) The messenger may also, as to immovable property sold by him in execution, do anything necessary to effect registration of transfer, anything done by the messenger under this sub-section or sub-section (4) said to be valid and effectual as if he were the execution debtor.

(6) Where judgment is given against a member of a partnership or syndicate in an action in which he and his firm were plaintiffs or defendants, the interest in the partnership or syndicate may be attached and sold in execution.

#### **Interpleader Claims**

48. (1) Where any person, not being the judgment debtor, makes any claim to or in respect of any property attached or about to be attached in execution under the process of any court, or to the proceeds of such property sold in execution, his claim shall be adjudicated upon after issue of a summons in the manner provided by the rules.

(2) Upon the issue of such summons any action which may have been brought in any court whatsoever in respect of such claim shall be stayed, and the court in which such action has been brought or any judicial officer thereof may, on proof of the issue of such summons, order the party bringing such action to pay the costs of all the proceedings in such action after the issue of the afore-said summons, and such action shall abide the result of the proceedings taken upon such summons.

#### **Sale in Execution gives Good Title**

44. A sale in execution by the messenger shall not, in the case of movable property after delivery thereof or in the case of immovable property after registration of transfer, be liable to be impeached as against a purchaser in good faith and without notice of any defect.

## **C.142**

### **Surplus after Execution**

45. If, after a sale in execution, there remains any surplus in the hands of the messenger, it shall be liable to attachment for any other unsatisfied judgment debt.

### **Debt, Salary or Wages may be Attached**

46. (1) Without prejudice to section 18 of the Hire Purchase Proclamation 1961 (which, *inter alia*, prohibits the making of any garnishee order for the purpose of enforcing payment by the buyer of any amount payable under a hire-purchase agreement or an instalment sale agreement or as a result of the termination or rescission thereof or as damages for any breach thereof)<sup>1</sup>, the court may order the attachment of any debt, salary or wages actually due to a judgment debtor by any other person residing, carrying on business or employed within the district to the amount necessary to satisfy the judgment and the costs of the proceedings for attachment, whether such judgment has been obtained in such court or in any other Subordinate Court, and may order such other person (hereafter called the "garnishee") to pay to the messenger of the court so much of the debt, salary or wages appearing at the time of making the order to be due and payable as may be sufficient to satisfy the said judgment and costs, and may enforce the order as if it were a judgment of the court.

(2) No such order in respect of salary or wages shall be granted unless the court is satisfied upon sworn information that sufficient means will, after satisfaction of the order, be left to the judgment debtor to maintain himself and those dependent on him.

(3) If, after any such order in respect of salary or wages has been granted, it is shown to the satisfaction of the court that sufficient means to maintain himself and those dependent upon him will not, after satisfaction of such order, be left to the judgment debtor, the court shall vary or set aside such order in such manner that such order will only affect the balance of such salary or wages over and above such sufficient means.

### **Future and Accruing Earnings, when Attachable**

47. (1) Nothing in this Proclamation contained shall be construed as authorising the attachment of future or accruing earnings otherwise than with the consent in writing or in open court of the judgment debtor; but upon such consent being given the court, if satisfied upon sworn information that sufficient means will, after satisfaction of the order, be left to the judgment debtor to maintain himself and those dependent on him, may grant a garnishee order in respect of such earnings as if they were actually payable.

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(1) Amended by Proclamation 28/1961

(2) Such an order may require the garnishee to pay periodically to the messenger definite amounts out of the earnings of the judgment debtor.

(3) The provisions of sub section (3) of the last preceding section shall apply to any order made under this section only if the judgment debtor proves to the satisfaction of the court that, after he gave such consent as aforesaid, his financial position changed substantially for the worse otherwise than by his own serious and wilful default.

#### **Jurisdiction to Decide Disputes Arising out of Garnishee Orders**

48. (1) If the garnishee disputes that the debt sought to be attached is owing or accruing, or alleges that it is subject to a set-off or belongs to or is subject to a claim by some third person, the court may determine the rights and liabilities of all the parties and may declare the claim of that third person to be barred, provided that the claim or value of the matter in dispute is otherwise within the jurisdiction of the court.

(2) If it be proved that such third person neither resides nor carries on business nor is employed within Botswana<sup>1</sup>, and that he has a *prima facie* claim to the debt, the court shall not have jurisdiction under this section.

#### **Execution or Payment is Discharge pro tanto**

49. Payment made by or execution levied upon the garnishee under the provisions of this Proclamation shall be a valid discharge of the debt or amount of salary or wages due from him to the judgment debtor to the extent of the amount paid or levied.

#### **Saving of Existing Law Prohibiting Attachment of Certain Property**

50. Nothing in this Proclamation contained shall be construed as authorising the attachment of any debt, salary or wages or any moneys or property specially declared by any law not to be liable to attachment.

#### **Order for Payment by Instalments**

51. Every court may make orders concerning the time or times, and by what instalments, any debt or costs for which judgment shall be obtained in such court shall be paid, and all such moneys shall be paid into court unless such court shall otherwise direct; and every such order shall be in the form prescribed by the rules.

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(1) Amended by L.N. 84/1966

**Execution or Suspension in Case of Appeal**

52. Where an appeal has been noted or an application to rescind, correct or vary a judgment has been made, the court may direct either that the judgment shall be carried into execution or that execution thereof shall be suspended pending the decision upon the appeal or application. The direction shall be made upon such terms, if any, as the court may determine as to security for the due performance of any judgment which may be given upon the appeal or application.

**CIVIL IMPRISONMENT**

**Summons for Civil Imprisonment**

53. (1) Without prejudice to section 18 of the Hire-Purchase Proclamation, 1961 (which, *inter alia*, prohibits the making of any decree of civil imprisonment for the purpose of enforcing payment by the buyer of any amount payable under a hire-purchase agreement or an instalment sale agreement or as a result of the termination or rescission thereof or as damages for any breach thereof), if a judgment has remained unsatisfied during a period of seven days, or if the judgment debtor has admitted in court or in writing or if it appears from the return of the messenger to any process of execution that the judgment debtor has not sufficient property liable to be attached in execution to satisfy the judgment debt and costs, the judgment creditor may summon the judgment debtor to show cause why the court should not make a decree of civil imprisonment against him.

(2) Such summons may be taken out either in the court wherein the original judgment was given or in the court of any district wherein the judgment debtor is for the time being residing, carrying on business or employed.

(3) Where it appears from the return of such summons that service was issued, the proceedings shall, unless the judgment debtor appears, be stayed until the court is satisfied that the judgment debtor has been paid or tendered the sum which would have been payable to him if he had been subpoenaed as a witness.

(4) A judgment debtor shall not be liable for any costs incurred by the judgment creditor in any proceedings in connection with a decree of civil imprisonment against such debtor (other than fees or charges which accrue to the Government or to the messenger of the court) —

- (a) if the judgment debt arose from the purchase on credit of goods other than foodstuffs or medicine<sup>1</sup> or from a loan of money, unless it is proved that the seller of those goods was induced to grant such credit<sup>1</sup> or the lender was induced to lend the money, as the case may be, by wilful misrepresentation made by or on behalf of the judgment debtor; or

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(1) Amended by Proclamation 28/1961

- (b) if the rights of the judgment creditor against the judgment debtor accrue to the judgment creditor by virtue of a cession.

### **Decree of Civil Imprisonment**

54. The court may, upon the return of the summons and whether the judgment debtor appears or not, make a decree of civil imprisonment against such judgment debtor and authorise the issue of a warrant for his arrest and detention in any gaol named in such warrant: Provided that —

- (1) the court may at any time suspend the execution of or altogether discharge any such decree or warrant upon such terms as may appear to the court to be fair and reasonable;
- (2) no such decree shall be pronounced and no such warrant shall be issued if the judgment debtor prove to the satisfaction of the court that he has no means of satisfying the judgment debt either wholly or in part and either out of present means or out of future earnings or income, unless it appears that the judgment debtor either —
  - (a) has wilfully made away with any property in order to defeat or delay payment of the judgment debt; or
  - (b) is able to earn sufficient to satisfy the judgment debt by instalments or otherwise to settle the same, but in order to defeat or delay payment of the judgment debt wilfully refuses to do so; or
  - (c) is squandering his money or is apparently living beyond his means;
- (3) in computing the degree to which the debtor can satisfy such debt the court shall take into consideration the conditions under which he obtains his income and the amount of his necessary expenses and those of the persons dependent on him.

### **Debtor May Show that he has Executable Property**

55. When, on the hearing of a summons for civil imprisonment, the judgment debtor satisfies the court that he has property capable of being attached in execution by the messenger and sufficient to satisfy the judgment debt and costs, the court shall either dismiss the summons or adjourn the further hearing thereof until the said property has been sold in execution.

### **Period of Imprisonment**

56. The period of civil imprisonment shall be decided by the court, but shall not in any case exceed three months, and, where the judgment debt and costs, so far as the same are unsatisfied, amount to less than R10, shall not exceed fourteen days.



## **C.146**

### **Costs of Civil Imprisonment**

57. (1) Unless it appears to the court upon the hearing of any proceedings for civil imprisonment that the debtor has, within forty-eight hours after having notice of the judgment upon which such proceedings are founded, made to the judgment creditor an offer to satisfy the debt by instalments which the court judges to be reasonable, or notified the creditor that he is unable to make an offer and the court finds this to be true, the court may order the debtor to pay the costs of such proceedings; but if it appears that the judgment creditor has refused such offer, the court may order the creditor to pay those costs.

(2) Upon any proceedings for the discharge or suspension of any decree, warrant or order for civil imprisonment, the court may order the judgment debtor to pay the costs of such proceedings, unless it appears that the proceedings were due to some fault or omission on the part of the judgment creditor.

(3) Nothing in this section contained shall be construed as depriving the court of its discretion to make such order as to costs as may be just.

### **Custody by Gaoler**

58. The keeper of any prison or gaol thereto authorised by warrant or order shall receive into his custody and detain in such gaol the judgment debtor named in such warrant or order in accordance with the tenor of such warrant and the provisions of the Prison Regulations: Provided always that the judgment creditor shall pay and satisfy the charges for the maintenance of the judgment debtor, which shall be such an amount not exceeding thirty-five cents per diem as the court shall determine and shall be paid weekly in advance to the keeper of the prison or gaol, who shall then issue to the judgment debtor a daily ration based on the amount of the maintenance money received.

### **Discharge from Imprisonment**

59. The keeper of the gaol shall forthwith discharge the judgment debtor from imprisonment:

- (1) upon expiry of the time for which such judgment debtor was imprisoned;  
or
- (2) when the judgment creditor gives his written consent to such discharge;  
or
- (3) when the judgment creditor or the messenger certifies in writing that the amount of the judgment debt and costs mentioned in the warrant and of any maintenance money that may have been paid by him for the unexpired portion

of the period of the imprisonment has been satisfied; and upon such satisfaction the judgment creditor or the messenger shall so certify to the said keeper; or

- (4) when such amount is paid to the said keeper by or on behalf of the judgment debtor; or
- (5) upon an order given by a Judge of the High Court or by any judicial officer of the district where the decree of civil imprisonment was pronounced against the judgment debtor or of the district wherein the gaol is.

#### **Effect of Discharge from Imprisonment**

60. No judgment debtor who has been once lawfully discharged from imprisonment (except a debtor discharged by an order of court suspending such imprisonment) shall ever again be liable to be arrested for the same debt or cause of action; but no arrest or imprisonment or discharge therefrom shall be deemed to be a satisfaction of the judgment debt, or of any part thereof, so as to prevent the judgment creditor from having further execution against the property of the said debtor.

#### **Warrant of Civil Imprisonment may be Suspended by Court of District Wherein it is Executed**

61. The court of any district wherein a judgment debtor is arrested shall have the same jurisdiction as the court from which the warrant was issued to suspend such warrant and may cancel or vary any order of suspension made by itself; but such first-mentioned court may not discharge altogether any warrant issued out of any other court.

### **APPEALS**

#### **By Consent Decision of Subordinate Court may be Final**

62. No appeal shall lie from the decision of a court if, before the hearing is commenced, the parties lodge with the court an agreement in writing that the decision of the court shall be final.

#### **Appeals from Subordinate Courts.**

63. Subject to the provisions of the last preceding section, a party to any civil suit or proceeding in a Subordinate Court may appeal to the High Court against:

- (a) any judgment of the nature described in section *thirty-one*;

## **C.148**

- (b) any rule or order made in such suit or proceeding and having the effect of a final and definite sentence, including any order as to costs;
- (c) any decision overruling or upholding an exception, when the parties concerned consent to such an appeal before proceeding further in an action, or when it is appealed from in conjunction with the principal case, or when it includes an order as to costs.

### **Time, Manner and Conditions of Appeal**

64. Every party so appealing shall do so within the period and in the manner prescribed by the rules, but the High Court may in any case extend such period.

### **Right of Appeal not Lost by Satisfaction of Judgment**

65. A party shall not lose the right to appeal through satisfying or offering to satisfy the judgment in respect of which he appeals or any part thereof or by accepting any benefit from such judgment, decree or order.

### **Respondent may Abandon Judgment**

66. (1) The respondent to an appeal may, by notice in writing, abandon the whole or any part of the judgment against which appeal is noted.

(2) Where the party so abandoning was the plaintiff or applicant, judgment in respect of the part abandoned shall be entered for the defendant or respondent with costs.

(3) Where the party so abandoning was the defendant or respondent, judgment in respect of the part abandoned shall be entered for the plaintiff or applicant in terms of the claim in the summons or application.

(4) A judgment so entered shall have the same effect in all respects as if it had been the judgment originally pronounced by the court in the action or matter.

(5) This section shall not apply to any action for affiliation, defamation or seduction.

### **Powers of High Court on Appeal**

67. The High Court may, on appeal:

- (a) confirm, vary or reverse the judgment appealed from, as justice may require;
- (b) if the record does not furnish sufficient evidence or information for the determination of the appeal, remit the matter to the court from which the

appeal is brought, with instructions in regard to the taking of further evidence or the setting out of further information;

- (c) order the parties or either of them to produce at some convenient time in the High Court such further proof as shall to it seem necessary or desirable; or
- (d) take any other course which may lead to the just, speedy and as much as may be inexpensive settlement of the case; and
- (e) make such order as to costs as justice may require.

#### **Execution of Judgment of High Court on Appeal**

68. The judgment of the High Court on appeal shall be recorded in the court appealed from, and shall be enforced as if it had been given in such last-mentioned court.

### **PART IV**

#### **CRIMINAL MATTERS**

##### *CRIMINAL JURISDICTION*

#### **Jurisdiction in Respect of Classes of Crimes and Offences<sup>1</sup>**

69. (1) Subordinate Courts of the First Class shall have jurisdiction over all offences except treason, murder and sedition and any conspiracy or attempt to commit any of these offences.

(2) Notwithstanding any provision in any law to the contrary, Subordinate Courts of the First Class may punish any person convicted of the offence of rape or of any conspiracy or attempt to commit such offence with imprisonment with or without hard labour for a period not exceeding four years.

(3) Subordinate Courts of the Second and Third Class shall have jurisdiction over all offences except treason, murder, sedition, offences relating to coinage and currency, rape and any conspiracy or attempt to commit any of these offences.

#### **Local Limits of Jurisdiction**

70. (1) Subject to the provisions of the last preceding section, any person charged with any offence committed within any district may be tried by the court of that district.

(1) Replaced by Proclamation 42/1961

## C.150

(2) When any person is charged with any offence :

- (a) committed in Botswana<sup>1</sup> within the distance of two miles beyond the boundary of the district ; or
- (b) committed in or upon any vehicle employed on a journey any part whereof was performed within the distance of two miles of the district ; or
- (c) begun or completed within the district,

such person may be tried by the court of the district as if such person had been charged with an offence committed within the district.

(3) Where it is uncertain in which of several jurisdictions an offence has been committed, it may be tried in any of such jurisdictions.

(4) A person charged with any offence may be tried by the court of the district wherein any act or omission or event which is an element of the offence took place.

(5) A person charged with theft of any property or with obtaining by any offence any property or with any offence which involves the receiving of any property by him may also be tried by the court of any district wherein he has or had any part of the property in his possession.

(6) A person charged with kidnapping, child-stealing or abduction may be tried by the court of the district in which this took place or of any district through or in which he conveyed or concealed or detained the person kidnapped, stolen or abducted.

(7) Where by any special provision of law a Subordinate Court has jurisdiction in respect of any offence committed beyond the local limits of the district, such court shall not be deprived of such jurisdiction by any of the provisions of this section.

### Jurisdiction in the Matter of Punishment

71. (1) Subject to the provisions of this Proclamation and of any other law in force in Botswana<sup>1</sup>, Subordinate Courts may punish any person convicted of any offence in the following manner and (save as is specially provided by this Proclamation or any other law) in no other or more severe manner, that is to say :

(a) A Subordinate Court of the First Class :

- (i) Imprisonment for a period not exceeding two years with or without hard labour ;
- (ii) fine not exceeding R400<sup>2</sup> or in default of payment such imprisonment as aforesaid ;

(1) Amended by L.N. 84/1966

(2) Amended by Proclamation 42/1961

- (iii) whipping, subject to the provisions of section *eighty-one* and to any other provisions hereinafter contained, not exceeding fifteen strokes with a cane.

(b) A Subordinate Court of the Second Class :

- (i) Imprisonment for a period not exceeding one year with or without hard labour;
- (ii) fine not exceeding R100 or in default of payment such imprisonment as aforesaid;
- (iii) whipping, subject to the provisions of section *eighty-one* and to any other provisions hereinafter contained, not exceeding eight strokes with a cane.

(c) A Subordinate Court of the Third Class :

- (i) Imprisonment with or without hard labour for a period not exceeding six months;
- (ii) fine not exceeding R50<sup>1</sup> or in default of payment such imprisonment as aforesaid.

A Subordinate Court of the Third Class shall have no power to impose a punishment of whipping.

(4) Any person convicted of any offence may be punished by both such punishment as may be imposed by section 1 of this section and such whipping, or a offender shall not for the same offence be punished both by fine and by whipping.

(5) The court may, in imposing a punishment of both fine and imprisonment under this section, sentence the accused to a further period of imprisonment if the fine is not paid, provided that the maximum period of imprisonment laid down in sub-section (1) of this section be not exceeded.

(6) The punishment of whipping shall be subject to the provisions of section *eighty-one* hereof and shall only be imposed for:

- (i) assault of an aggravated or indecent nature or with intent to do grievous bodily harm;
- (ii) culpable homicide, robbery, bestiality or an act of gross indecency committed by one male person with another or any attempt to commit any such offence; or
- (iii) any statutory offence for which whipping may be imposed as a punishment:

Provided that the punishment of whipping shall not be imposed on females:<sup>2</sup>

(1) Corrected by Law 39 of 1962

(2) Amended by Proclamation 42 of 1961

## C.152

Provided further that, anything to the contrary in any other law notwithstanding, the punishment of whipping shall not be imposed more than once for the same offence.

(5) Where any law provides that for any offence there may be imposed any forfeiture or confiscation, the court before which such offence is prosecuted may impose such forfeiture or confiscation in addition to any other penalty.

(6) Nothing in this section contained shall be construed as authorising a court to impose for any offence a punishment greater than may by law be imposed for such offence, or as preventing a court from imposing, as often as it is specially authorised by any law so to do, any other or more severe punishment than the punishments mentioned in sub section (1)

(7) Nothing in this section contained shall be construed as authorising a court to declare a person to be an habitual criminal.<sup>1</sup>

### Extension of Criminal Jurisdiction of Specified Officers <sup>2</sup>

71A. (1) The President<sup>3</sup> with the concurrence of the Chief Justice may, by order under his hand, authorize an increased jurisdiction in criminal cases to be exercised by the judicial officer named in the order either throughout Botswana<sup>3</sup> or within the district stated in the order and to the extent specified in the order and either generally or in respect of the particular matter or class of case named therein.

(2) No such order shall authorize the person named therein to award a sentence of imprisonment in excess of four years with or without hard labour and any such order may, at any time, be varied or revoked by the President<sup>3</sup> with the concurrence of the Chief Justice by instrument under his hand.

(3) All such orders when made or any order varying or revoking such an order shall be published in the *Gazette*.

### When Summary Trial to be Turned into Preparatory Examination

72. When in the course of any trial it appears that the offence under trial is from its nature or magnitude only subject to the jurisdiction or more proper for the cognisance of the High Court, or when the public prosecutor so requests, the presiding officer shall stop the trial, and the proceedings shall thereupon be those of a preparatory examination.

### Return of Criminal Proceedings<sup>4</sup>

72A. (1) At the end of every month every Subordinate Court shall forward to

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(1) Amended by Proclamation 49/1959  
(2) Amended by Proclamation 42/1961

(3) Amended by L.N. 84/1966  
(4) Inserted by Proclamation 42/1961

the High Court, in such form as the Chief Justice may from time to time direct, a complete list of all criminal cases decided by, pending in or brought before such court during that month.

(2) The Chief Justice may require separate lists in respect of individual judicial officers or separate lists in respect of specified classes of judicial officers.

(3) The High Court may, in respect of any case mentioned in any such list, call for the record and take any or all such steps and make such orders in connection therewith as if the case had been submitted to the High Court for review.

#### REMITTAL

##### **Cases Remitted for Trial or Sentence**

73. When a case in which a preparatory examination was held has been remitted for trial or sentence, the court to which it has been remitted shall act therewith as prescribed by the Criminal Procedure and Evidence Proclamation, and shall have power, in respect of each offence or count to which the remittal refers, to impose a sentence in accordance with the provisions of section seventy-one if the remittal is expressed to be under the ordinary jurisdiction of such court, or a sentence in accordance with the provisions of section seventy-two if the remittal is expressed to be under the increased jurisdiction given by such last-mentioned section.

##### **Jurisdiction in Respect of Punishments in Remitted Cases**

74. (1) When a case has been so remitted and the remittal is expressed to be under the increased jurisdiction given by this section, the jurisdiction of the court in respect of punishments as expressed in section seventy-one shall be increased in the manner following:

- (a) A Subordinate Court of the First Class: The maximum amount of imprisonment shall be four years; the maximum amount of fine shall be R400;
- (b) A Subordinate Court of the Second Class: The maximum amount of imprisonment shall be two years; the maximum amount of fine shall be R200.

(2) The court may, in imposing a punishment of both fine and imprisonment under this section, sentence the accused to a further period of imprisonment if the fine be not paid, provided that the said maximum period of imprisonment be not exceeded.



## REVIEW AS OF COURSE

### **Review of Sentences Imposed by a Subordinate Court of the Third Class**

75. All sentences in criminal cases imposed by a Subordinate Court of the Third Class other than sentences of imprisonment for a period exceeding three months shall be subject to review as of course by an officer appointed to hold a First Class Subordinate Court in the district in which such Third Class Subordinate Court is situate; but without prejudice to the right of appeal against such sentence whether before or after confirmation of the sentence by the officer reviewing the same.

### **What Sentences Subject to Automatic Review by the Court**

76. All sentences in criminal cases in which the punishment awarded is imprisonment (including detention in a reformatory, industrial school, inebriate reformatory, farm colony, work colony, refuge, rescue home or other similar institution), in the case of subordinate courts of the first class for any period exceeding six months or a fine exceeding R100, and in the case of subordinate courts of the second and third class for any period exceeding three months or a fine exceeding R50 or any whipping (save in any case in which a male child under the age of eighteen years has been sentenced under the Criminal Procedure and Evidence Proclamation) shall be subject in the ordinary course to review by the High Court; but without prejudice to the right of appeal against such sentence whether before or after confirmation of the sentence by the High Court.

### **Submission of Records and Remarks to Reviewing Officer or Judge for Consideration**

77. (1) Whenever a Subordinate Court of the Third Class imposes a punishment (other than a sentence of imprisonment for a period exceeding three months) upon any person convicted of an offence, the officer so imposing the punishment shall forthwith transmit the proceedings to a reviewing officer as provided in section *seventy-five* together with such remarks, if any, as he may desire to append thereto.

(2) Whenever a Subordinate Court imposes upon any person convicted of an offence any such punishment as in section *seventy-six* mentioned, the clerk of the court shall transmit to the Registrar of the High Court, not later than one week next after the determination of the case, the record of the proceedings in the case together with such remarks, if any, as the presiding officer may desire to append thereto, and with any written statements or arguments which the accused may within three days after the sentence supply to the clerk of the court, and the Registrar shall, with all convenient speed, lay the same before a Judge, in chambers, for his consideration.

### Proceedings on Review

78. (1) If, upon considering the proceedings in the last preceding section mentioned and any further information or evidence which may, by the direction of the reviewing officer or the Judge, be supplied or taken by the lower court, it appears to the reviewing officer or the Judge, as the case may be, that they are in accordance with justice, he shall endorse his certificate to that effect upon the record thereof; and the said record shall then be returned to the court from which the same was transmitted.

(2) If, upon considering the proceedings aforesaid, it appears to the reviewing officer or the Judge, as the case may be, that the same are not in accordance with justice or that doubts exist whether or not they are in such accordance:

(a) the reviewing officer may:

- (i) alter or reverse the conviction or reduce or vary the sentence of the court which imposed the punishment; or
- (ii) when it appears necessary to do so, remit such case to the court which imposed the sentence with such instructions relative to the taking of further evidence and generally to the further proceedings to be had in such case as the reviewing officer thinks fit, and make such order touching the suspension of the execution of any sentence against the person convicted or the admitting of such person to bail, or, generally, touching any matter or thing connected with such person or the proceedings in regard to him as to the reviewing officer seems calculated to promote the ends of justice; or
- (iii) submit the proceedings to the Judge for review as if the case were one falling under section 77(2).

(b) the Judge may *for the purpose of section 79*

- (i) alter or reverse the conviction or, subject to any maximum period of imprisonment or fine specified by law for the offence in question, increase the sentence to one which could have been awarded by a Subordinate Court having First Class jurisdiction or reduce or vary the sentence of the Court which imposed the punishment; or<sup>1</sup>
- (ii) when it appears necessary to do so, remit such case to the Court which imposed the sentence with such instructions relative to the taking of further evidence and generally to the further proceedings to be had in such case as the Judge thinks fit, and may make such order touching the suspension of the execution of any sentence against the person convicted or the admitting of such person to bail, or, generally, touching any matter or thing connected with such person or the proceedings in

## C.156

regard to him as to the Judge seems calculated to promote the ends of justice;

Provided that in the event of any conviction being reversed or proceedings set aside on any ground mentioned in section 82(6), the provisions of that sub section in respect of the institution of fresh proceedings shall *mutatis mutandis* apply.

(3) If in any case the Judge desires to have any question of law or fact arising in any such case argued at the bar, he may direct the same to be argued at the bar, he may direct the same to be argued by the Attorney-General and by such other person as the Judge may appoint.

(4) If in any criminal case in which a Subordinate Court of the First or Second Class has imposed a sentence which is not subject to review in the ordinary course in terms of section 76, it is brought to the notice of the Judge that the proceedings in which the sentence was imposed were not in accordance with justice, the Judge shall have the same powers in respect of such proceedings as if the record thereof had been laid before him in terms of section 77(2).

## EXECUTION OF SENTENCES

### Warrant Required for Commitment to Prison

79. (1) Any person sentenced to undergo the punishment of imprisonment shall be committed to the prison of the district for the purpose of punishment by a warrant under the hand of a judicial officer specifying any punishment to which the accused has been sentenced.

(2) Such warrant may be signed either by the judicial officer who passed the sentence or by any other judicial officer for the same district.

### Execution of Sentence Suspended under Certain Conditions

80. (1) The execution of any sentence of fine or of imprisonment, whether with or without hard labour, shall not be suspended by the transmission of or the obligation to transmit the record for review unless the person sentenced shall give sufficient bail to pay the fine imposed upon him or to surrender himself in order to undergo such imprisonment (as the case may be) in case the proceedings in the case shall be approved as aforesaid and in case a written notice to pay or to surrender (as the case may be), signed by the clerk of the court, shall be served upon or for such person at some place to be mentioned in the bail bond or recognisance.

(2) Every such notice requiring the payment of the fine or the surrender of such person (as the case may be) shall be served in like manner as is prescribed by the rules in regard to the service of the summons on a defendant in a civil case.

**Person Sentenced to Whipping to be Detained Pending Review**

81. (1) The punishment of whipping shall in no case (except where a male child under the age of eighteen years has been sentenced under the Criminal Procedure and Evidence Proclamation) be inflicted until either the proceedings in the case have been returned with such a certificate as is in sub-section (1) of section *seventy-eight* of this Proclamation mentioned or the High Court has affirmed the sentence of the Subordinate Court.

(2) If in any case a person sentenced to receive any number of strokes shall not be also condemned to be imprisoned for such a period as shall allow time for the Judge's certificate to be received before inflicting the said strokes, such person, in case he shall not give sufficient bail to appear after being served at some place to be mentioned in the bail bond or recognisance with a written notice signed by the clerk of the court requiring him so to do, shall be detained in custody until either the proceedings in the case have been returned as aforesaid, or the sentence has been affirmed as aforesaid.

(3) In every case in which any person sentenced as aforesaid shall give bail as aforesaid, the judicial officer (should he so think fit) may take bail also for the cost and charge of serving such notice as aforesaid (if necessary), which cost and charge shall be the same as that of serving a summons in a civil case against the same person at the same place.

**CRIMINAL APPEALS****Appeals**

82. (1) Any person convicted of any offence by the judgment of any Subordinate Court (including a person discharged after conviction under any provision of the Criminal Procedure and Evidence Proclamation) may appeal against such conviction and against any sentence or order of the court following thereupon to the High Court. Every person giving notice of appeal to the High Court against the decision of a Subordinate Court in any criminal matter shall deposit the sum of R4: Provided that the Judge may, if he is of the opinion that the appeal was not of a frivolous nature, or for any other cause, order the deposit, or portion of it, to be refunded.

(2) Whenever a criminal summons or charge is dismissed at any stage of the proceedings on exception or on the ground that it is bad in law or that it discloses no offence, the Attorney-General may in like manner appeal against such dismissal.

(3) Any such appeal shall be noted and prosecuted within the period and in the manner prescribed by the rules; but the High Court may in any case extend such period.

## C.158

(4) The High Court shall thereupon have the powers set out in sub section (2) (b) of section *seventy-eight*: Provided that, notwithstanding that the High Court is of opinion that any point raised might be decided in favour of the appellant, no conviction or sentence shall be reversed or altered by reason of any irregularity or defect in the record or proceedings unless it appears to the High Court that a failure of justice has in fact resulted therefrom or that the accused has been prejudiced thereby.

(5) When an appeal under this section is noted, the provisions of sections *eighty* and *eighty-one* shall apply *mutatis mutandis* to the sentence appealed against.

(6) Whenever a conviction and sentence of a Subordinate Court are set aside on appeal on the ground that evidence was admitted which should not have been admitted, or that evidence was rejected which should have been admitted, or on the ground of any other irregularity or defect in the procedure, proceedings in respect of the same offence to which the conviction and sentence referred may again be instituted either on the original summons or charge or upon any other indictment, summons or charge, as if the accused had not previously been arraigned, tried and convicted: Provided that such proceedings shall not be instituted before the same judicial officer who recorded the conviction and imposed the sentence set aside.

### Appeal by Prosecutor

83. (1) When a Subordinate Court has in any criminal proceedings given a decision in favour of the accused on any matter of law, the Attorney-General, or if a person or a body other than the Attorney-General or his representative was the prosecutor in those proceedings then that other prosecutor, may require the judicial officer to state a case for the consideration of the High Court setting forth the question of law and his decision thereon, and, if evidence has been heard, his findings of fact, in so far as they are material to the question of law.

(2) When such a case has been stated, the Attorney-General or other prosecutor, as the case may be, may appeal from that decision to the High Court.

(3) Sub section (3) of section *eighty-two* shall apply to an appeal under sub section (2) of this section.

(4) If an appeal under sub section (2) is allowed, the Subordinate Court which gave the decision appealed from shall, subject to the provisions of sub section (5), after giving sufficient notice to both parties, reopen the case in which the decision was given and deal with it in the same manner as it should have dealt therewith if it had given a decision in accordance with the law as laid down by the High Court.

(5) In allowing such appeal, whether wholly or in part, the High Court may itself impose such sentence upon the respondent or make such order as the Subordinate Court ought to have imposed or made, or it may remit the case to the

Subordinate Court and direct that court to take such further steps as the High Court thinks proper.

## PART V

### OFFENCES

#### **Penalty for Disobedience of Order of Court**

84. Any person wilfully disobeying or neglecting to comply with any order of a Subordinate Court shall be guilty of a contempt of court and shall, upon conviction, be liable to a fine not exceeding R50 or, in default of payment, to imprisonment for a period not exceeding three months, or to such imprisonment without the option of a fine.

#### **Offences Relating to Execution**

85. Any person who —

- (1) obstructs a messenger or deputy messenger in the execution of his duty;  
or
- (2) being aware that goods are under arrest, interdict, or attachment by the court, makes away with or disposes of those goods in any manner not authorised by law, or knowingly permits those goods, if in his possession or under his control, to be made away with or disposed of in any such manner; or
- (3) being a judgment debtor and being required by a messenger or deputy messenger to point out property to satisfy any warrant issued in execution of judgment against such person, either —
  - (a) falsely declares to that messenger or deputy messenger that he possesses no property or not sufficient property to satisfy the warrant; or
  - (b) although owning such property neglects or refuses to point out the same; or
- (4) being a judgment debtor refuses or neglects to comply with any requirement of a messenger or deputy messenger in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution,

shall, upon conviction, be liable to a fine not exceeding R50 or, in default of payment, to imprisonment for a period not exceeding three months or to such imprisonment without the option of a fine.

## **C.160**

### **Custody and Punishment for Contempt of Court**

86. (1) If any person, whether in custody or not, wilfully insults any judicial officer during his sitting or any clerk or messenger or other officer during his attendance at such sitting, or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where such court is held, he shall (in addition to his liability to being removed and detained as in sub section (4) of section *seven* provided) be liable to imprisonment for any period not exceeding one month or to pay a fine not exceeding R40 for every such offence or, in default of payment, to such imprisonment.

(2) In any case in which the court commits or fines any person under the provisions of this section, the judicial officer shall without delay transmit to the Registrar of the High Court, for the consideration and review of the Judge in chambers, a statement, certified by such judicial officer to be true and correct, of the grounds and reasons of his proceedings, and shall also furnish to the party committed a copy of such statement.

## **PART VI**

### **GENERAL AND SUPPLEMENTARY**

#### **Jurisdiction as to Plea of Ultra Vires**

87. No Subordinate Court shall be competent to pronounce upon the validity of a Proclamation or Notice of the High Commissioner, and every such court shall assume that such Proclamation or Notice is valid.

#### **Amendment of Proceedings**

88. (1) In any proceedings, whether civil or criminal, the court may, at any time before judgment, amend any summons or other document forming part of the record: Provided that no amendment shall be made by which any party other than the party applying for such amendment may (notwithstanding adjournment) be prejudiced in the conduct of his action or defence.

(2) In civil proceedings an amendment may be made upon such terms as to costs and otherwise as the court may judge reasonable.

(3) No misnomer in regard to the name of any person or place shall vitiate any proceeding of the court if the person or place be described so as to be commonly known.

#### **Review of Decisions**

89. Whenever a decision is given by a Subordinate Court in a criminal case on

a matter of law, and the Attorney-General is dissatisfied with such decision, the Attorney-General may seek the ruling thereon of the High Court, and the High Court may set down the matter to be argued before it.

#### **Savings and Non-application of Proclamation**

90. (1) Nothing in this Proclamation shall be construed as affecting the operation of the Criminal Procedure and Evidence Proclamation.

(2) Nothing in this Proclamation contained shall be construed as depriving the High Court of any power to review and correct the proceedings of any Subordinate Court.

#### **Saving of Pending Proceedings**

91. (1) Nothing in this Proclamation shall affect proceedings pending in the court of any District Commissioner, Assistant District Commissioner or Cadet at the date of coming into effect of this Proclamation; and such proceedings shall be continued and concluded in every respect as if this Proclamation had not been promulgated.

(2) Proceedings shall, for the purpose of this section, be deemed to be pending if, at the commencement of this Proclamation, summons had been issued or the accused had pleaded but judgment had not been given; and to be concluded when judgment is given.

#### **Saving Existing Custom of Summoning African Accused or African Witnesses**

92. Nothing in this Proclamation contained shall affect the existing custom whereby the attendance of an African accused or witness or party to a civil action in any court in Botswana<sup>1</sup> may be secured through his chief, sub-chief or headman by warning, either in writing or by messenger of such chief, sub-chief or headman.

#### **Power of President<sup>1</sup> to Make Rules.**

93. The President<sup>1</sup> may from time to time, by Notice in the *Gazette*, make rules regulating and prescribing the practice, procedure, fees, costs and charges of, and the forms to be used in, Subordinate Courts; and all such rules shall have the same force and effect as if they had been contained in this Proclamation.

#### **Administration of Oath or Affirmation**

94. (1) Every officer or person entitled or appointed under section *four* to hold a court is hereby empowered to administer an oath or affirmation to any

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(1) Amended by L.N. 84/1966



## **C.162**

witness in any proceedings, whether civil or criminal, in such court, or at any preparatory examination.

(2) The oath or affirmation to be taken by any witness in any proceedings, whether civil or criminal, in any court or at any preparatory examination, shall be administered by the officer presiding at such proceedings, or by the clerk of the court (or any person acting in his stead) in the presence of the said officer, or, if the witness is to give his evidence through an interpreter, by the said officer through the interpreter, or by the interpreter in the said officer's presence.

(3) The oaths and affirmations previously administered by such officers and persons in all such proceedings and preparatory examinations are hereby declared to be valid.

### **Protection from Actions<sup>1</sup>**

94A. No judicial officer shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, if he at the time, in good faith, believes himself to have jurisdiction to do or order the act complained of to be done and no officer of any Subordinate Court or other person bound to execute the lawful warrants or order of any such judicial officer shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

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(1) Inserted by Proclamation 42/1961

**THE CINEMATOGRAF PROCLAMATION (CHAPTER 159)**  
as amended by  
**THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964**  
(No. 28 of 1964)  
(Promulgated 19th November, 1964)  
and  
**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING  
LAWS) ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of Section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 3rd March, 1967.

**C.164**

36 of 1920.

37 of 1946.

Cap. 133.

108 of 1955.

28 of 1964     *To regulate and control the exhibition of cinematograph films.*

L.N. No. 84

of 1966

**CHAPTER 159**

**CINEMATOGRAPH**

(13th August, 1920)

**Short Title.**

1. This Proclamation may be cited as the Cinematograph Proclamation.

**Interpretation.**

2. In this Proclamation unless inconsistent with the context —

“proprietor” shall include the owner of and any person having the right to exhibit or use any picture and the lessee or manager of a theatre ;

“theatre” shall include any hall, building, or place used or proposed to be used for the exhibition of pictures ;

“picture” shall include any cinematograph film or poster or placard used for advertising any such picture or film.<sup>1</sup>

**Permit to Take Films.<sup>1</sup>**

3. It shall not be lawful in Botswana<sup>2</sup> to make cinematograph films<sup>1</sup> for hire or reward or for the purpose of public exhibition or advertisement, or to take photographs for the purpose of making such films without first obtaining permission in writing from the President.<sup>2</sup> The grant or refusal of such permission shall be in the discretion of the President<sup>2</sup>, who may attach to any permission such conditions as he may deem fit. Any person who contravenes or attempts to contravene any of the provisions of this section or who having obtained the President's<sup>2</sup> permission under this section fails to comply with any condition attached thereto shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a period not exceeding three months.

**Inspection of Pictures.**

4. It shall be lawful for the President<sup>2</sup> by written notice to the proprietor, to order that any picture intended for public exhibition or for the purposes of advertisement be first exhibited or submitted to the Minister or any District Officer named in such order for inspection.

Any proprietor failing to comply with such order shall be guilty of an offence and liable on conviction to a fine not exceeding R20 or in default of payment to imprisonment for a period not exceeding one month.

(1) amended by Law 28/1964

(2) amended by L.N. 84/1966

**Trial Exhibitions.**

5. Any person deputed by the President<sup>1</sup> may enter any theatre where a trial exhibition of any picture is made or where such picture is being publicly exhibited to inspect the same.

Any person preventing or obstructing such entry shall be guilty of an offence and liable on conviction to a penalty not exceeding R20 or in default of payment to imprisonment for a period not exceeding one month.

**Objectionable Pictures.**

6. (1) The President<sup>1</sup> shall declare any picture to be objectionable if he is satisfied, either on the report of any such person as is mentioned in section 4 or 5 or on any other grounds that such picture represents in an offensive manner —

- (a) impersonation of the Queen ;
- (b) scenes holding up to ridicule or contempt any member of the Queen's naval, military or air forces ;
- (c) scenes tending to disparage public characters ;
- (d) scenes calculated to affect the religious convictions or feelings of any section of the public ;
- (e) scenes suggestive of immorality or indecency ;
- (f) executions, murders, or other revolting scenes ;
- (g) scenes of debauchery, drunkenness, brawling, or of any other habit of life not in accordance with good morals and decency ;
- (h) successful crime or violence ; or
- (i) scenes which are in any way prejudicial to the peace, order or good government of Botswana<sup>1</sup>.

(2) The President<sup>1</sup> may in his discretion declare any picture other than such as is described in the preceding subsection to be objectionable.

(3) If the President<sup>1</sup> has declared any picture to be objectionable in terms of subsection (1) or (2), he shall cause notice thereof to be given in writing, by telegram or by radio to any proprietor, prohibiting the exhibition of such picture in any theatre or its use for purposes of advertisement.

(4) Any proprietor exhibiting or using or permitting to be exhibited or used, any picture, the exhibition or use whereof has been so prohibited, shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or in default of payment thereof to imprisonment not exceeding twelve months, or to such imprisonment without the option of a fine.

(1) amended by L.N. 84/1966

(2) deleted by Law 28/1964

**C.166**

**Onus of Proof.**

8. (1) In any prosecution for an offence under section 3 the onus of proving that he has obtained such permission as is therein mentioned shall be upon the accused.

(2) Where proof is required in any such prosecution of the terms of any such permission or of any condition attached thereto, a copy thereof certified by the Minister to be a true copy shall be accepted in evidence and shall be of like value and effect as the original.

C.167

**THE PURCHASE OF AGRICULTURAL PRODUCE PROCLAMATION, 1960**

(No. 47 of 1960)

(Promulgated 30th September, 1960)

as amended by

**THE PURCHASE OF AFRICAN PRODUCE (AMENDMENT) LAW, 1961**

(No. 4 of 1961)

(Promulgated 24th October, 1961)

and

**THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964**

(No. 28 of 1964)

(Promulgated 19th November, 1964)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint; 13rd March, 1967.

C.168

## THE PURCHASE OF AGRICULTURAL<sup>1</sup> PRODUCE PROCLAMATION, 1960

No. 47 of 1960

(Promulgated 30th September, 1960)

### PROCLAMATION

By His Excellency the High Commissioner

*Entitled the Purchase of Agricultural<sup>1</sup> Produce Proclamation, 1960.*

WHEREAS it is expedient to make provision regulating the purchase of agricultural<sup>1</sup> produce<sup>1</sup> from the primary producers thereof;

NOW, THEREFORE, under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows —

#### Short Title.

1. This Proclamation may be cited as the Purchase of Agricultural<sup>1</sup> Produce Proclamation, 1960.

#### Interpretation.

2. In this Proclamation, unless the context otherwise requires —

“agricultural<sup>1</sup> produce” means all or any of the following —

- (a) crops;
- (b) vegetables, fruits, flowers or plants;
- (c) horses, cattle, sheep, goats, swine, mules, donkeys or poultry;
- (d)<sup>2</sup> the produce of any domestic animals including the carcasses, eggs, bones, horns, hoofs, hides, fur, feathers, hair or wool but not including milk, cream, cheese or butter;
- (e)<sup>3</sup>  
produced in Botswana<sup>4</sup>;

“licence” means any licence issued under the Trading Act, 1966 (No. 6 of 1966) or the Control of Livestock Proclamation (Cap. 109 of the Laws of Botswana).

#### “Good-fors” Prohibited.<sup>5</sup>

3. No person shall purchase or offer to purchase any agricultural produce from the primary producer thereof subject to a condition that the purchase price of such shall be regarded in whole or in part as a credit for the purpose of

(1) amended by Law 28/1964

(4) amended by Law 28/1964 and L.N. 84/1966

(2) amended by Law 4/1961

(5) inserted by Law 28/1964

(3) deleted by Law 4/1961

enabling the seller of such produce to make future purchases of any kind from the purchaser.

**Penalties.**

4. Any person who contravenes the provisions of section 3 shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment, and if such person is a licence holder the Court may in addition to any other penalty order the cancellation of any licence in respect of which the offence was committed.

5.<sup>1</sup>

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(1) repealed by Law 28/1964



1. *Journal of the American Medical Association*, 1998; 279: 1001-1005.

**THE AMENDMENTS INCORPORATION LAW, 1961**

(No. 1 of 1961)

(Promulgated 24th October, 1961)

as amended by

**THE AMENDMENTS INCORPORATION (AMENDMENT) LAW, 1964**

(No. 12 of 1964)

(Promulgated 22nd May, 1964)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint; 3rd March, 1967.

C.172

**THE AMENDMENTS INCORPORATION LAW, 1961**

**No. 1 of 1961**

**A LAW TO PROVIDE FOR THE REPRINTING OF AMENDED LAWS AND  
FOR MATTERS INCIDENTAL THERETO**

(24th October, 1961)

ENACTED by the Legislature of the Bechuanaland Protectorate

**Short Title.**

1. This Law may be cited as the Amendments Incorporation Law, 1961.

**Interpretation.**

2. In this Law, unless the context otherwise requires —

“law” means Law, Proclamation, enactment of the legislative authority of the Cape of Good Hope or High Commissioner’s Notice or Government Notice made under statutory authority, in force in Botswana.<sup>1</sup>

**Reprinting of Amended Law .**

3. When any law has been amended, whether before or after the commencement of this Law, the Attorney-General<sup>2</sup> may direct the Government Printer to reprint the law as amended<sup>2</sup>, in the form prepared by the Attorney-General.

**Powers of Attorney-General.**

3A.<sup>3</sup> In preparing the form of a reprint of any such law the Attorney-General shall have power in relation to such law to —

- (a) supply or alter marginal notes, and tables showing the arrangements of sections ;
- (b) correct cross-references ;
- (c) correct grammatical and typographical mistakes in the existing copies thereof and for that purpose to make additions, omissions or alterations not affecting the meaning thereof ;
- (d) correct punctuation ;

(1) amended by L.N. 84/1966

(2) amended by Law 12/1964

(3) inserted by Law 12/1964

- (e) make such formal alterations as to names, localities, offices, currency and otherwise as are necessary to bring that law into conformity with the circumstances of Botswana<sup>1</sup> or any other country or to secure uniformity of expression in the laws of Botswana<sup>1</sup> :

Provided that nothing in this section shall empower the Attorney-General to make alteration or amendment in the substance of any law or otherwise affecting its meaning.

**Matters to be Included in Reprint.**

- 4. In every law so reprinted —
  - (a) there shall be printed the date of the reprint and the words “Reprinted by direction of the Attorney-General in terms of section 3 of the Amendments Incorporation Law, 1961.”; and
  - (b) there shall be printed a statement containing a short reference to every law by which the reprinted law was amended up to the date of the reprint; and
  - (c)<sup>2</sup> reference shall be made in the margin or footnote of every page at which an amendment or other alteration commences, to the provisions by which that amendment or alteration was made.

**Validity of Reprinted Law.**

5. The production of a copy of a law purporting to have been reprinted by the Government Printer in terms of the provisions of this Law shall be *prima facie* evidence in all courts and for all purposes whatsoever of the provisions of the law so reprinted as on the date of the reprint.

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(1) amended by L.N. 84/1966

(2) amended by Law 12/1964

100% of the respondents reported that they had used the Internet to search for information about the disease. The most common search engines used were Google (95%), Bing (85%), and Yahoo (75%). The most common search terms used were "HIV/AIDS" (90%), "HIV/AIDS symptoms" (85%), "HIV/AIDS treatment" (80%), and "HIV/AIDS prevention" (75%).

**THE ATTORNEY-GENERAL'S PROCLAMATION**  
(Chapter 19)

as amended by

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)**  
**ORDER, 1963**

(Order of Her Majesty's Commissioner No. 1 of 1963)  
(Published 28th October, 1963)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)**  
**ORDER, 1966**

(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the Amendments  
Incorporation Law, 1961.

Date of Reprint: 3rd March, 1967.

C.176

23 of 1914.

29 of 1935.

Cap. 14.

Order 1 of

1963.

L.N. 84/1966

## CHAPTER 19

### ATTORNEY-GENERAL<sup>1</sup>

*To make provision for the establishment of the office of Attorney-General and to define the duties, powers and functions of such office.*

(24th December, 1891)

#### Short Title.

1. This Proclamation may be cited as the Attorney-General's Proclamation.

#### Interpretation and Creation of Office of Attorney-General.

2.<sup>2</sup>

#### Powers of Attorney-General.

3. For the prosecution of crimes and offences which may have been or may be committed within Botswana,<sup>3</sup> all and singular the rights, powers, functions, and duties conferred or imposed by the law of the Colony of the Cape of Good Hope upon the Attorney-General of the said Colony, shall, *mutatis mutandis*, be conferred and imposed upon the Attorney-General.

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(1) N.B. See also Sections 52 and 115 of the Constitution

(2) Deleted by Order of H.M.C. 1/1963

(3) Amended by L.N. 84/1966

**THE GENERAL ADMINISTRATION PROCLAMATION  
(CHAPTER 35)**

as amended by

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1963'**

(Order of Her Majesty's Commissioner No. 1 of 1963)  
(Published 28th October, 1963)

and

**THE CONCESSIONS LAW, 1964**

(No. 26 of 1964)  
(Promulgated 4th March, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

Reprinted by the direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint : 17th March, 1967.



C.178

61 of 1954.  
36 of 1956.  
Order 1 of 1963.  
26 of 1964.  
L.N. 84 of 1966.

## CHAPTER 35

### GENERAL ADMINISTRATION

*To amend the law in Botswana<sup>1</sup> relating to the administration of Botswana<sup>1</sup>, and generally to the establishment of peace, order and good government therein.*

(19th November, 1954)

1.<sup>2</sup>

2.<sup>3</sup>

3.<sup>3</sup>

4.<sup>3</sup>

#### Appointment of Administrative Officers.

5. (1)<sup>3</sup>

(2) (a) The President<sup>1</sup> may from time to time prescribe by notice in the *Gazette* such administrative districts within Botswana<sup>1</sup> as he shall think fit.

(b) The districts defined in the High Commissioner's Notices published in volume III of the Laws of the Bechuanaland Protectorate, 1948, under the heading "Chapter 28", as amended by High Commissioner's Notice No. 60 of 1950, shall be deemed for all purposes to have been prescribed, as from the 19th day of November, 1954, in terms of paragraph (a).

6.<sup>3</sup>

#### Meaning of Assistant Commissioner.

7. Wherever the term "Assistant Commissioner" or "Acting Assistant Commissioner" appears in any law, it shall be read so as to include a senior district officer or a district officer.

#### References in Existing Legislation.

8. The rights, duties and functions conferred by any law in force in Botswana<sup>1</sup> upon resident magistrates or assistant resident magistrates shall be conferred upon both senior district officers and district officers and where in any law in force in Botswana<sup>1</sup> the words "resident magistrate" or "assistant resident magistrate" appear, the said words shall refer to both senior district officers and district officers.

(1) amended by L.N. 84 of 1966

(2) deleted by L.N. 84 of 1966

(3) deleted by H.M.C. Order 1/1963

9.<sup>1</sup>

10.<sup>2</sup>

11.<sup>3</sup>

12.<sup>2</sup>

**Saving.**

13. Any appointment made, any order issued or anything done, which was in force at the time this Proclamation came into force, shall remain valid and of full force and effect until varied or repealed in terms of this Proclamation.

**Short Title.**

14. This Proclamation may be cited as the General Administration Proclamation.

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(1) deleted by H.M.C. Order 1/1963

(2) deleted by Law 26/1964

(3) deleted by L.N. 84 of 1966

1. <https://doi.org/10.1016/j.jmb.2019.04.005>

**THE CATTLE EXPORT TAX PROCLAMATION  
(CHAPTER 95)**

as amended by

**THE GENERAL LAW (TAXATION PROVISIONS) AMENDMENT LAW, 1961**  
(No. 21 of 1961)  
(Promulgated 1st January, 1962)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 17th March, 1967.

10 of 1952.  
110 of 1955.  
21 of 1961.  
L.N. 84/1966.

## CHAPTER 95

### CATTLE EXPORT TAX

*To make provision for the imposition of a consolidated tax on horned cattle exported from Botswana<sup>1</sup> and on horned cattle slaughtered at the Botswana Meat Commission<sup>2</sup> Abattoir.*

(9th May, 1952)

#### Interpretation.

1. In this Proclamation, unless the context otherwise requires —  
“abattoir” means the abattoir at Lobatsi owned and controlled by the Botswana Meat Commission<sup>2</sup>;  
“Botswana Meat Commission<sup>2</sup>” includes any subsidiary thereof;  
“horned cattle” includes any bull, cow, ox, stag, heifer, weaned calf and the slaughtered carcass or portion of a carcass of any such stock, other than hides, horns or hoofs.

#### Tax on Cattle Exported.

2. (1) Upon every head of horned cattle exported from Botswana<sup>1</sup> there shall be paid to the Botswana<sup>1</sup> Government a tax of <sup>3</sup>R2.25.

(2) (a) Upon every head of horned cattle slaughtered at the abattoir there shall be paid by the Botswana Meat Commission<sup>2</sup> to the Botswana<sup>1</sup> Government a tax at the same rate as the tax imposed under subsection (1):

Provided that when the Botswana Meat Commission<sup>2</sup> has paid tax under this subsection it shall not be liable for payment of tax under subsection (1).

(b) If the Botswana Meat Commission<sup>2</sup> fail to pay any tax due in terms of this section, it shall be liable on conviction to the penalties set out in section 4.

(3) Such portion of the taxes imposed under subsections (1) and (2) as the President<sup>1</sup> may direct by notice in the *Gazette*, shall be paid into the fund mentioned in section 23 (1) of the Control of Livestock Industry Proclamation (Chapter 109), and shall be used for the general benefit of the livestock industry in Botswana<sup>1</sup>.

(4) The President<sup>1</sup> may by notice in the *Gazette* order a rebate of the tax paid in pursuance of subsection (2) (a) in respect of any class of cattle slaughtered at the abattoir.

(1) amended by L.N. 84 of 1966

(2) formal amendment under Law 1 of 1961 as read with Law 22 of 1965

(3) amended by Law 21 of 1961

**Manner of Payment.**

3. The taxes imposed by section 2 shall be payable to any administrative officer, veterinary officer, stock inspector, police officer or any other person authorised in writing by the President<sup>1</sup> to receive such taxes, and such officer or other person shall give an official receipt for the same, the production of which receipt at the port of exit shall be proof of payment of the tax on the said cattle.

**Penalty.**

4. Any person who exports or attempts to export any horned cattle from Botswana<sup>1</sup> without having first paid the tax imposed by this Proclamation shall be guilty of an offence and liable, on conviction, to a fine not exceeding R20 or to imprisonment for a term not exceeding one month or to both such fine and imprisonment in respect of each head of horned cattle exported or attempted to be exported.

**Onus of Proof.**

5. In any prosecution for exporting or attempting to export any horned cattle without first having paid the tax imposed by this Proclamation, proof that the accused or any agent of the accused who had charge of the cattle at the time of the exportation or attempted exportation failed, on demand made by any member of the police force or by any of the persons mentioned in section 3 to produce the receipt for such tax, shall be sufficient evidence that such tax has not been paid unless and until the contrary is proved.

**Short Title.**

6. This Proclamation may be cited as the Cattle Export Tax Proclamation.

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(1) amended by L.N. 84 of 1966

C.184

G.N. 64 of 1952.

G.N. 68 of 1952.

**PAYMENT INTO CATTLE LEVY EXPORT FUND**

(under section 2)

(1st January, 1953)

The Resident Commissioner has directed, with the approval of the High Commissioner, that two shillings out of the tax of one pound be paid into the Cattle Export Levy Fund.

G.N. 3 of 1956.

**REBATE OF TAX**

(1st February, 1956)

The Resident Commissioner has ordered the rebate of the tax in respect of all cattle slaughtered at the abattoir, the carcasses of which are totally condemned at the abattoir on any of the following grounds :

- (a) *Dropsy* or *oedema* ;
- (b) *septic mastitis* or *mammitis* ;
- (c) *tuberculosis* in females or *entire* males ;
- (d) *metritis* ;
- (e) *peritonitis* or *pleurisy* in females ;
- (f) bruising in the case of a dressed carcass graded as grade V ;
- (g) for more than one ground where any one of such grounds is a ground which does not entitle payment of compensation from the condemnation insurance scheme operated by the abattoir.

C.185

**THE PUBLIC HOLIDAYS PROCLAMATION  
(CHAPTER 44)**

as amended by

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint : 17th March, 1967.



C. 186

70 of 1938.  
Cap. 32  
52 of 1950.  
66 of 1952.  
30 of 1958.  
L.N. 84 of 1966.

## CHAPTER 44

### PUBLIC HOLIDAYS

*To make provision for public holidays*

(23rd December, 1938)

#### **Short Title.**

1. This Proclamation may be cited as the Public Holidays Proclamation.

#### **Public Holidays.**

2. The days named in the Schedule shall be public holidays within Botswana<sup>1</sup>:

Provided that —

- (a) when any of the said days falls on a Sunday the following Monday shall be observed as a public holiday; and
- (b) when Boxing Day falls on a Monday the following Tuesday shall be observed as a public holiday.

#### **Power to Appoint any Day to be a Public Holiday.**

3. The President<sup>1</sup> may from time to time by notice in the *Gazette* appoint any day not named in the Schedule, but specified in that notice, to be observed as a public holiday within Botswana<sup>1</sup>.

#### **References in Laws to Public Holidays.**

4. Any reference in any law in force in Botswana<sup>1</sup> to public holidays shall be deemed to be a reference to public holidays as named by or appointed under the provisions of this Proclamation and to no other days.

#### **Non-business Days for Bills of Exchange and Promissory Notes.**

5. Sunday and any other day named in the Schedule to, or appointed under the provisions of, this Proclamation as a public holiday shall be deemed to be a non-business day within the meaning of any law in force in Botswana<sup>1</sup> relating to bills of exchange or promissory notes, anything to the contrary in any such law notwithstanding.

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(1) amended by L.N. 84 of 1966

SCHEDULE

New Year's Day  
Good Friday  
The Saturday intervening between Good Friday and Easter Monday  
Easter Monday  
Ascension Day  
Whit Monday  
'President's Day (24th May)  
'Commonwealth Day (on a day to be appointed each year by the President' by  
notice in the *Gazette*)  
First Monday in August  
'Botswana Day (30th September)  
Christmas Day  
Boxing Day.



**THE REVISION OF PENALTIES PROCLAMATION  
(CHAPTER 33)**

as amended by

**THE PENAL CODE LAW, 1964**

(No. 2 of 1964)

(Promulgated 10th June, 1964)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

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Amendments Incorporation Law, 1961.

Date of Reprint: 17th March, 1967.

C.190

40 of 1951.  
2 of 1964.  
L.N. 84 of 1966.

## CHAPTER 33

### REVISION OF PENALTIES

*To amend the laws of Botswana<sup>1</sup> regarding sentences  
upon conviction for statutory offences.*

(13th July, 1951)

#### **Deletion of Minimum Punishments.**

1. If any penal section of any law in force in Botswana<sup>1</sup> directs that upon conviction a minimum punishment must be imposed, the words directing such minimum punishment are hereby deleted from any such section.

#### **Powers of Courts to Impose Fines..**

2.<sup>2</sup>

#### **Short Title.**

3. This Proclamation may be cited as the Revision of Penalties Proclamation.

### SCHEDULE<sup>2</sup>

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(1) amended by L.N. 84 of 1966

(2) repealed by Law 2 of 1964

**THE HIGH COURT PROCLAMATION  
(CHAPTER 4)**

as amended by

**THE HIGH COURT (CONSTITUTIONAL AMENDMENT) PROCLAMATION, 1961**  
(No. 38 of 1961)  
(Promulgated 28th April, 1961)

and

**THE GENERAL LAW (REMOVAL OF DISCRIMINATION) REVISION LAW, 1964**  
(No. 28 of 1964)  
(Promulgated 19th November, 1964)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

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Amendments Incorporation Law, 1961.

Date of Reprint : 24th March, 1967.

C.192

Cap. 3  
19 of 1954.  
27 of 1955.  
38 of 1956.  
13 of 1957.  
38 of 1961.  
28 of 1964.  
L.N. 84 of 1966.

## CHAPTER 4

### HIGH COURT

*To consolidate and amend the law  
relating to the High Court of Botswana<sup>1</sup>.*

(21st May, 1954)

#### Interpretation.

1. In this Proclamation —

“other Territories” means Lesotho and Swaziland.

2.<sup>2</sup>

#### Constitution of Court and Power to Appoint Registrar<sup>3</sup>.

3. (1) Any reference in this Proclamation or any other law to the Judge shall be deemed to be a reference to the Chief Justice or puisne judge or person temporarily appointed a puisne judge.

(2) At any session of the High Court, the Court shall consist of a single judge, unless the Chief Justice otherwise directs.

(3) The President<sup>1</sup> may appoint a Registrar of the High Court and, if necessary, an Assistant Registrar of the High Court.

(4) Any reference in any law to the Registrar shall be deemed to include an Assistant Registrar.

#### Jurisdiction of the High Court.

4. The High Court shall have jurisdiction in all causes and proceedings whatsoever, both civil and criminal, arising or which have arisen in Botswana<sup>1</sup>: Provided always that, except in regard to the matters specified in section 29 of the Subordinate Courts Proclamation (Cap. 5) no civil cause or action to which Africans only are parties, and no civil cause or action to which either party is a European and in which the amount claimed or the value of the subject-matter in dispute does not exceed R1000, shall be instituted in or removed into the High Court save with the leave of a Judge upon application made to him in Chambers.

(1) amended by L.N. 84/1966

(2) deleted by Proc. 38/1961

(3) amended by Proc. 38/1961

**Powers of Review.**

5. (1) The High Court shall have full power, jurisdiction and authority to review the proceedings of all subordinate courts of justice within Botswana<sup>1</sup>, and if necessary to set aside or correct the same. This power, jurisdiction and authority may be exercised in open Court or in Chambers in the discretion of the Judge.

(2)<sup>2</sup>

**Powers of Appeal.**

6. The High Court shall be a Court of Appeal from all subordinate courts in Botswana<sup>1</sup> with full power —

- (a) to reverse and vary all judgments, decisions and orders, civil and criminal, of any of the said subordinate courts;
- (b) to order a new trial of any cause heard or decided in any of the subordinate courts and to direct, if necessary, that such new trial shall be heard in the High Court;
- (c) to send back any case heard and decided in a subordinate court with such instructions as to any further proceedings as the High Court may deem necessary; and
- (d) to impose such punishment (whether more or less severe than, or of a different nature from, the punishment imposed by the Court below) as in the opinion of the High Court ought to have been imposed at the trial:

Provided that notwithstanding that the High Court is of the opinion that any point raised might be decided in favour of the accused, no conviction or sentence shall be set aside or altered by reason of any irregularity or defect in the record of proceedings, unless it appears to the High Court that a failure of justice has in fact resulted therefrom.

**Court to have Assistance of Administrative Officers.**

7. The High Court may call to its assistance at any civil or criminal trial or appeal not more than two Administrative Officers chosen by the President<sup>1</sup>. It shall be the duty of such Officer or Officers to give, either in open Court or otherwise, such assistance and advice as the Judge may require, but the decision shall be vested exclusively in the Judge. The agreement or disagreement of such Officer or Officers with the decision of the Judge shall be noted on the record.

**Assistance of Assessors.<sup>3</sup>**

8. The High Court may call to its assistance at any civil or criminal trial or appeal one or more Assessors who shall be chosen by the President<sup>1</sup> to aid the Court. It shall be the duty of such Assessor or Assessors to give, either in open Court or otherwise, such assistance and advice as the Judge may require,

(1) amended by L.N. 84/1966

(2) deleted by Proc. 38/1961

(3) amended by Law 28/1964



## **C.194**

but the decision shall be vested exclusively in the Judge. The agreement or disagreement of such Assessor or Assessors with the decision of the Judge shall be noted on the record.

### **Sessions of Court.**

9. The dates and times of sittings of the High Court, called "Sessions", shall be determined by the Chief Justice or by any person performing the duties of the Chief Justice. At such Sessions, of which there shall be at least two in each year, all criminal business shall as far as practicable be tried and determined in priority to all other business.

### **Proceedings to be in Open Court and in English Language.**

10. (1) Save as otherwise provided in this Proclamation, the pleadings and proceedings of the High Court shall be carried on and the sentences, decrees, judgments and orders thereof pronounced and declared in open Court and not otherwise: Provided, however, that at any time during a trial the Judge may, if he thinks fit, order the Court to be cleared or that any person or class of persons shall leave the Court.

(2) The pleadings and proceedings of the Court shall be in the English language.

### **Reference in any Law to Court of Resident Commissioner or Special Court.**

11. Subject to the provisions of this Proclamation, whenever in any law in force in Botswana<sup>1</sup> the Court of the Resident Commissioner or the Special Court of Bechuanaland Protectorate is required or empowered to do any act, the High Court established by this Proclamation shall be required and empowered to do the like; and where in any law in force the term "Resident Commissioner's Court" or "the Special Court" is used the said term shall be deemed to mean the High Court.

12.<sup>2</sup>

### **Jurisdiction of Registrar.**

13. When the Chief Justice and Puisne Judge are absent from Botswana<sup>1</sup> the Registrar may exercise the jurisdiction set out in paragraphs (b) (i), (ii), (iii), (iv), (v) and (vii) of sub-section (1) of section 12:

Provided that the Registrar shall not exercise jurisdiction under paragraph (b) (vii) in matrimonial matters:

Provided further that when he exercises jurisdiction under this section there shall be a right of appeal to the Judge in Chambers except under paragraph (b) (vii) where consent to judgment is filed.

(1) amended by L.N. 84/1966

(2) deleted by Proc. 38/1961

**Rules of Court.**

14. (1) The Chief Justice may at any time and from time to time make Rules of Court for regulating the proceedings of the Court, and, without derogating from the general powers hereby conferred, may in particular make Rules in regard to the following matters :

- (a) The pleading, practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be payable, their amount and the method and time of payment of the same ;
- (b) the expenses of parties and witnesses, their amount and the method and time of payment of the same ;
- (c) the qualification, admission, enrolment and conduct of advocates, attorneys, notaries public and conveyancers, their fees and costs and the amount, taxation and recovery of the same ;
- (d) the duties and powers of the several officers of Court and of Commissioners of the same.

(2) Every rule as aforesaid shall be published in the *Gazette* and thereupon shall take effect and have the force of law.



**THE ACQUISITION OF PROPERTY PROCLAMATION  
(CHAPTER 118)**

as amended by

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1963**

(Order of Her Majesty's Commissioner No. 1 of 1963)  
(Published 28th October, 1963)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1965**

(Legal Notice No. 28 of 1965)  
(Published 30th June, 1965)

and

**THE ACQUISITION OF PROPERTY (AMENDMENT) LAW, 1966**

(No. 26 of 1966)  
(Promulgated 16th September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

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Amendments Incorporation Law, 1961.

Date of Reprint: 24th March, 1967.

C.198

80 of 1954.

26 of 1966.

L.N. 84 of 1966

## CHAPTER 118

### ACQUISITION OF PROPERTY

*To make provision authorising the acquisition of property for public and other purposes, and for settling the amount of any compensation to be paid, or any matter in difference.*

(28th January, 1955)

#### Interpretation.

1. In this Proclamation unles inconsistent with the context:

“Board” means a Board of Assessment constituted in terms of section 9;

“Judge in Chambers” shall mean the Chief Justice or any Judge of the High Court sitting in Chambers within Botswana<sup>1</sup>, and shall not include an officer exercising jurisdiction under section 13 of the High Court Proclamation.

(Public purposes)<sup>2</sup>

“Real property” and “property” mean any real right in immovable property in Botswana<sup>1</sup> other than a mortgage bond over immovable property, and shall include any lease of immovable property, any rights to the use of public water whether derived from the common law or from statute, any servitude, or the creation of any servitude, and any land granted or ceded to any corporation, company or person; but shall not include Tribal Territories as defined by the Tribal Territories Proclamation (Cap. 68).

#### Power of the President<sup>1</sup> to Acquire Property.

2. (1)<sup>3</sup> The President<sup>1</sup> may acquire any real property where the acquisition of such property is necessary or expedient —

(a) in the interest of defence, public safety, public order, public morality, public health, town and country planning or land settlement; or

(b) in order to secure the development or utilisation of that or other property for a purpose beneficial to the community;

paying such compensation therefor as may be agreed upon or determined under the provisions of this Proclamation.

(2) The President<sup>1</sup> may agree with the owner of any real property required for public purposes for the purchase of such property, or such portion thereof as he shall think proper, for such consideration or compensation as may be agreed upon or determined under the provisions of this Proclamation; and may in like manner acquire leasehold title.

(1) amended by L.N. 84/1966

(2) deleted by Law 26/1966

(3) replaced by Law 26/1966

**Preliminary Investigations.**

3. (1) Whenever it appears to the President<sup>1</sup> that real property in any locality is likely to be needed for any public purpose it shall be lawful for any person either generally or specially authorised by the President<sup>1</sup> in this behalf and for his servants and workmen to do all or any of the following things ;

- (a) To enter upon and survey and take levels of any property in such locality ;
- (b) to dig or bore under the subsoil ;
- (c) to do all other acts necessary to ascertain whether the property is adapted for such purpose ;
- (d) to clear, set out and mark the boundaries of the property proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice of his intention to do so.

(2) As soon as conveniently may be after any entry made under sub-section (1) the person so authorised as aforesaid shall pay for all damage done, and in case of dispute as to the amount to be paid either such person or the person claiming compensation may refer such dispute to the Subordinate Court of the First Class having jurisdiction in the area, whose decision shall be subject to an appeal to the High Court.

**Notice of Intention to Take Property.**

4. (1) Whenever the President<sup>1</sup> resolves<sup>2</sup> to acquire any property in terms of section 2 the Minister<sup>3</sup> shall give notice to the persons interested or claiming to be interested in such property or to the persons entitled by this Proclamation to sell and convey or lease the same or to such of them as shall after reasonable enquiry be known to him (which notice shall be in Form A in the Schedule hereto or to the like effect).

(2)<sup>4</sup>

**Powers of Persons under Disability to Sell and Convey.**

5. It shall be lawful for any person who is registered owner of any property or entitled to any real rights or any estate or interest therein, to sell and convey or lease the same to the President<sup>1</sup>, and particularly it shall be lawful for all or any of the following persons to sell and convey or lease, that is to say—fiduciary heirs, fideicommissary heirs, guardians, tutors testamentary or dative, curators nominate or dative, curators appointed to lunatics, idiots or prodigals, trustees under antenuptial contracts or for charitable or other purposes, executors and administrators, and trustees in insolvent estates; and the power so to sell

(1) Enacted by L.N. 34/1936

(2) Enacted by L.N. 35/1936

(3) Enacted by L.N. 23/1936

(4) Enacted by L.N. 36/1936

## C.200

and convey or lease as aforesaid may lawfully be exercised by such persons not only on behalf of themselves, but also for and on behalf of every person entitled in reversion or remainder after them, and to such tutors or curators or trustees on behalf of their *cestui que* trusts respectively to the same extent as such wards or *cestui que* trusts could have exercised the same powers under this Proclamation if they had respectively been of no disability.

### Notice of Intention to Take Over and Power to Take Possession.

6. The President<sup>1</sup> may, by such notice as is prescribed in section 4 or by any subsequent notice, direct the persons aforesaid to yield up possession of such property after the expiration of the period specified in the notice which period shall not be less than two months from the service of such notice, unless the property is urgently required for the public purpose.

At the expiration of such period the President<sup>1</sup> and all persons authorised by him shall be entitled to enter into and take possession of such property accordingly.

### Service of Notices.

7. (1) Every notice under sections 4 and 6, shall either be served personally on the persons to be served or left at their last usual place of abode or business, if any such place can after reasonable enquiry be found, and in case of any such persons shall be absent from Botswana<sup>1</sup> or if such persons or their last usual place of abode or business after reasonable enquiry cannot be found, such notice shall be left with the occupier of such property or his agent, or if there be no such occupier or agent shall be affixed upon some conspicuous part of such property.

(2) If any such person be a corporation, company or firm, such notice shall be left at the principal office of such corporation, company or firm in Botswana<sup>1</sup> or if no such office can after reasonable enquiry be found, shall be served upon some officer (if any) or agent (if any) of such corporation, company or firm in Botswana<sup>1</sup>, or if there be no such officer or agent, or such officer or agent cannot after reasonable enquiry be found, shall be affixed upon some conspicuous part of such property.

(3) All notices served under the provisions of this Proclamation shall be inserted once at least in the *Gazette* and in a newspaper circulating in Botswana<sup>1</sup>.

### Disputes as to Legality of Acquisition etc.<sup>2</sup>

7A. If any person holding or claiming any interest or title in any property described in any notice under section 4 or section 6 disputes the legality of the proposed acquisition or entry into possession of such property he may apply to the High Court to determine the same.

(1) amended by L.N. 84/1966

(2) inserted by Law 26/1966

**Disputes as to Compensation and Title to be Settled in Terms of this Proclamation.**

8. If for three months after the service and publication as aforesaid of such notice no claim shall be lodged with the President<sup>1</sup> in respect of such property, or if the person who may have lodged any claim and the President<sup>1</sup> shall not agree as to the amount of the compensation to be paid for the estate or interest in such property belonging to such person, or which he is by this Proclamation enabled to sell and convey or lease, or if such person has not given satisfactory evidence in support of his claim or if separate and conflicting claims are made in respect of the same property, the amount of compensation due, if any, and every such case of disputed interest or title shall be settled as provided for in this Proclamation.

**Disputes to be Settled by a Board of Assessment.**

9. (1) Any dispute, whether as to the amount of compensation or as to interest or title, shall be determined by a Board of Assessment to be constituted of —

- (a) a person nominated by the Chief Justice who holds or has held or is qualified to hold judicial office in terms of the High Court Proclamation (Cap. 4), who shall be appointed by the President<sup>1</sup>, and who shall be Chairman of the Board of Assessment; and
- (b) a member to be appointed by the President<sup>1</sup>; and
- (c) (i) if the dispute is as to the amount of compensation, a member to be nominated by the person claiming compensation; or
- (ii) if the dispute is as to the interest or title a member or members to be nominated by each person claiming interest or title.

The names of the persons so appointed or nominated, as the case may be, shall be lodged in writing with the Minister<sup>2</sup>.

(2) Where in any case the President<sup>1</sup> is satisfied that any person claiming compensation or interest or title has refused to exercise his right to nominate a member, or has unreasonably delayed such nomination, he may by order in writing direct the Chairman of the Board to proceed with an enquiry notwithstanding that there has been no such nomination; and in every such case the Board shall be deemed to be lawfully constituted by the Chairman and the member appointed by the President<sup>1</sup> and (if that be the case) any member or members nominated in terms of sub-section (1) (c) (ii).

(3) If for any reason the number of members constituting a Board shall be even in number, the Chairman, in addition to his deliberative vote, shall have a casting vote.

(4) Proceedings before a Board shall be initiated by a summons issued by the Minister<sup>2</sup> or any person making claim to compensation or claim to any title or interest in any property named in any notice under section 4. The summons shall be as in Form B in the Schedule hereto or to the like effect.

(1) amended by L.N. 84/1966

(2) amended by L.N. 28/1965



## C.202

### **Procedure at Enquiry by Board of Assessment.**

10. (1) The Board shall hear any persons, by themselves or their counsel, attorney or representative, who claim to own, or to have any title or interest in, the property which is to be acquired or leased, and may by notice require the attendance of any person as a witness, and the production of any documents.

(2) Any person who without reasonable excuse refuses or neglects to attend before the Board as a witness or to produce any document when required so to do by the Board shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R50 or, in default of payment thereof, to imprisonment not exceeding three months; provided that in any prosecution under this sub-section a certificate purporting to be under the hand of the Chairman shall be *prima facie* proof that the accused has refused or neglected to attend as a witness or to produce any document or documents specified in such certificate.

(3) In any enquiry before a Board evidence shall be taken on oath, or on affirmation as prescribed by section 216 of the Criminal Procedure and Evidence Proclamation (Cap. 18), administered by the Chairman in the form required in judicial proceedings, and any person who knowingly gives false evidence in any such enquiry shall be guilty of an offence, and liable on conviction to the penalties prescribed by law for perjury.

### **Decision in Absence of Parties.**

11. Where any person upon whom a summons has been served shall not appear at the time appointed, a decision may be given *ex parte* upon hearing the evidence adduced; and such decision shall be as effectual as if given after hearing in the presence of such person.

### **Report of Government Officers and Sworn Appraisers as to Value to be Evidence.**

12. The written report of any officer of the Public Works, Veterinary or Agricultural Departments, or the sworn appraisement of a sworn appraiser, as to the value of the property or of any buildings or trees or crops thereon shall be evidence thereof.

Such officer or sworn appraiser may, on giving three days' notice in writing to the occupier, enter upon any such property or into any buildings thereon for the purpose of ascertaining the value of such property and the buildings, trees and crops thereon.

Any party in the proceedings or the representative of the President<sup>1</sup> may call such officer or sworn appraiser as a witness, and may also adduce any other evidence as to value.

The report of such officer or sworn appraiser may be proved by a copy thereof under his hand.

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(1) amended by L.N. 84/1966

Proof of the signature of such copy shall not be required, unless the Court sees reason to doubt the genuineness thereof.

**Party Not to be Compelled to Sell or Convey Part of a House.**

13. No person shall at any time be required to sell and convey to the President<sup>1</sup> a part only of any house or other building if such person be willing and able to sell and convey the whole thereof.

**Matters to be Considered in Determining Compensation.**<sup>2</sup>

14. (1) In determining the amount of compensation to be given for property acquired or to be acquired under this Proclamation, a Board shall assess what is adequate compensation therefor, and for such purpose shall have regard to —

- (a) the market value of the property at the date of service of the notice of acquisition under section 4;
- (b) any increase in the value of any other property of any person interested likely to accrue from the use to which the property acquired will be put;
- (c) the damage, if any, sustained by any person interested, by reason of the severing of any land from any other land of such person;
- (d) the damage, if any, sustained by any person interested, by reason of the acquisition injuriously affecting any other property of such person;
- (e) the reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition;

and shall not have regard to —

- (f) the fact that the acquisition is compulsory;
- (g) the degree of urgency which has led to the acquisition;
- (h) any disinclination of any person interested to part with the property to be acquired;
- (i) any damage sustained by any person interested which, if caused by a private person, would not be a good cause of action;
- (j) any increase in the value of the property to be acquired which is likely to accrue from the use to which it will be put when acquired;
- (k) any outlay on additions or improvements to the property to be acquired, which has been incurred after the date of service of the notice of acquisition under section 4 unless such additions or improvements were in the opinion of the Court necessary.

(2) If the market value of the property has been increased by means of any improvements made within one year immediately preceding the service of the notice of acquisition under section 4, such increase shall be disregarded unless it be proved that the improvement was made *bona fide* and not in contemplation of such property being compulsory acquired under the provisions of this Proclamation.

(1) amended by L.N. 84/1966

(2) Replaced by Law 26/1966

## **C.204**

### **Compensation for Loss of Rents and Profits.**

15. When the President<sup>1</sup> has in pursuance of a notice under section 6 entered into possession of any property, the Board may award compensation to the owner of such property and to all parties entitled to any title or interest therein for loss of rents for the period between the time the President<sup>1</sup> so entered into possession, and the time when the consideration due under an agreement has been paid to the persons entitled thereto, or compensation has been paid under the provisions of the Proclamation.

### **When the President<sup>1</sup> may Withdraw from the Acquisition of Property.**

16. Nothing in this Proclamation shall be taken to compel the President<sup>1</sup> to complete the acquisition of any property unless he shall have entered into possession of the property or has failed within one month of the award of the Board to intimate to the Board that he does not intend to proceed with the acquisition:

Provided, however, that the owner of the property and all persons entitled to any title or interest in the land shall be entitled to receive from the Government all such costs as may have been incurred by them by reason or in consequence of the proceedings for acquisition, and compensation for the damage (if any) which they may have sustained by reason or in consequence of the notice of intended acquisition.

The amount of such costs shall be determined in the manner set out in the next succeeding section, and the amount of such compensation, if not agreed upon, shall be determined by the Board.

### **Costs.**

17. (1) In any proceedings under this Proclamation, to which the Government is a party, the parties thereto may be awarded costs against each other on the same principles as would be applied in a trial action in the High Court, and on the tariff contained in the rules of the High Court.

(2) Any bill of costs due under the preceding sub-section and not agreed upon by the parties shall be taxed by the Taxing Master of the High Court.

(3) Every sum payable by the Government as costs shall upon production of the *allocatur* of the Taxing Master be paid by the Accountant-General.

### **Decision of the Board to be Final.**

18. The decision of the Board respecting any compensation or any question of disputed interest or title shall be final and conclusive as respects all parties upon whom notices have been served in terms of section 7, or who have appeared and claimed or on whose behalf any person having authority thereto shall have appeared and claimed any compensation, interest or title.

(1) amended by L.N. 84/1966

<sup>1</sup> Provided that any person who is aggrieved by any such decision may, within 30 days after the date thereof, appeal to the High Court against such decision.

**Filing of Award and Time for Payment.**

19. In every case where an award has been made under this Proclamation :

- (1) The award of the Board, signed by the Chairman, shall be transmitted to the Registrar of the High Court, who shall cause the award to be filed in the records of the High Court, and shall transmit a certified copy thereof to the Minister<sup>2</sup> and to all parties upon whom notices have been served in terms of this Proclamation, or who have appeared before the Board and claimed any compensation, interest or title.
- (2) If by such award any person is entitled to compensation, the amount of such compensation shall be payable on registration of conveyance of title to the President<sup>3</sup> by the Registrar of Deeds if such registration be necessary, or otherwise within two months of the receipt of the certified copy of the award by the Minister<sup>2</sup>, and such payment shall operate as a full and legal discharge and acquittance of the President<sup>3</sup> of all claims in respect of any property the subject of such award.

**Payment of Compensation into the Ministry of Finance.**

20. (1) When property is compulsorily acquired under this Proclamation and there is no person competent to receive any compensation awarded or any portion thereof, by reason of absence from Botswana<sup>3</sup> or not being there represented by a duly authorised agent, or such person, after diligent enquiry, cannot be found, the Minister<sup>2</sup> shall apply by motion supported by affidavit to a Judge of the High Court in Chambers for an order authorising the President<sup>3</sup> to deposit in the Ministry of Finance to the credit of such person the amount awarded as compensation, and any Judge of the High Court shall have power to make such an order.

(2) Any moneys deposited in pursuance of the preceding sub-section not claimed within ten years of the date of such deposit shall lapse to the State<sup>3</sup>.

(3) Nothing in this section contained shall be construed as affecting the liability of any person, who may receive the whole or any part of any compensation awarded under this Proclamation, to pay the same to the person lawfully entitled thereto.

**Conveyance of Title.**

21. (1) If the compulsory acquisition of property under this Proclamation necessitates registration by the Registrar of Deeds of any conveyance of title thereto, and the person required to complete the necessary documents for the purpose of effecting such conveyance shall fail, neglect or refuse to complete such documents within a reasonable time, or if such person cannot after diligent

(1) amended by Law 26/1966

(2) amended by L.N. 28/1965

(3) amended by L.N. 84/1966

## **C.206**

search be found, the Registrar of the High Court is hereby authorised to complete and sign such documents in the name of the person so failing, neglecting, refusing or being absent; and the Registrar of Deeds is hereby authorised to register such conveyance on receipt of the documents completed and signed by the Registrar of the High Court together with an affidavit by the Minister<sup>1</sup> setting out the full facts.

(2) Notwithstanding anything in any other law contained, no transfer duty shall be payable in respect of any conveyance of title consequent upon acquisition of property in terms of this Proclamation.

### **Parties in Possession as Owners to be Deemed Entitled to Property.**

22. If any question arises respecting the title to occupation or possession of any property to be acquired under this Proclamation, the parties in occupation or possession thereof, or in respect of any rents lawfully payable in respect thereof, shall be deemed to have been lawfully entitled to such occupation or possession, unless the contrary be shown to the satisfaction of the Board; and they and all parties claiming under them or consistently with their possession shall be deemed entitled to the consideration or purchase money, but without prejudice to any subsequent proceedings against such parties at the instance of any person claiming to have a better right thereto.

### **President<sup>2</sup> Exonerated upon Payment.**

23. The payment in pursuance of this Proclamation of any consideration or compensation to any person, or the payment into the Ministry of Finance in terms of section 20 (1) shall effectually discharge the President<sup>2</sup> from seeing to the application or being answerable for the misapplication thereof, provided that where any person is in possession in any fiduciary or representative character, the President<sup>2</sup> may pay such consideration or compensation to such persons and in such proportions and instalments and after such notices as the Board may direct.

### **Delay in Payment of Compensation.<sup>3</sup>**

23A. Any person aggrieved by any delay in the payment of compensation due to him under this Proclamation may apply to the High Court for the purpose of obtaining prompt payment thereof.

### **Effect of Registration of Conveyance.**

24. Every conveyance of title into the name of the President<sup>2</sup> resulting from acquisition of property under this Proclamation shall confer on the President<sup>2</sup> in trust for Botswana<sup>2</sup>, the title or interest comprised or referred to therein against all persons, free from all adverse or competing rights, title, interests, trusts, claims and demands whatsoever, subject to the terms and conditions, if any, therein mentioned.

(1) amended by L.N. 28/1963

(2) amended by L.N. 84/1966

(3) inserted by Law 26/1966

### **Proceedings where Possession of Property Withheld.**

25. If any person hinders or obstructs any person duly authorised by the President<sup>1</sup> from entering upon and taking possession of any property the possession of which he may lawfully claim in pursuance of this Proclamation, the President<sup>1</sup> may apply *ex parte* at any time to the High Court for a writ of possession and such Court may thereupon upon proof of the service and publication of the notices mentioned in sections 4 and 6, issue a writ of possession (which shall be in Form C in the Schedule), addressed to the Sheriff under which any officer of the Sheriff or police officer may forthwith eject any person so withholding possession.

### **Penalty for Hindering the Taking of Possession of Property.**

26. Every person who shall wilfully hinder or obstruct any person duly authorised by the President<sup>1</sup> from entering upon or taking possession of or using any property in pursuance of the provisions of this Proclamation; or who shall molest, hinder or obstruct such person when in possession of such property, or shall hinder or obstruct any officer of the Sheriff or police officer when executing a writ of possession shall be guilty of an offence and liable on conviction to a fine not exceeding R50 or in default of payment thereof to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

### **Consideration which the President<sup>1</sup> is Willing to Pay, and Sum, if any, Allowed for Enhancement to be Stated in Summons.**

27. Every summons issued in terms of section 9 (4) shall state the sum which the President<sup>1</sup> is willing to pay for the property to which the summons relates, and when part only of the property belonging to any person is required such summons shall also state the sum, if any, allowed in estimating such amount for enhancement of the value of the residue of such property.

### **Rules of Procedure.**

28. (1) The Chief Justice may at any time and from time to time make Rules not inconsistent with the provisions of this Proclamation for regulating the proceedings before a Board<sup>2</sup> or the High Court under this Proclamation.

(2) No Court fees shall be payable in respect of any summons, pleading or form required by this Proclamation or by the Rules made in terms of the preceding sub-section.

### **The Fact that Notice of Intended Acquisition has been Served not to be Taken as an Admission in Question that the Property is not State<sup>1</sup> Land.**

29. The fact that a notice has been served upon any person under sections 4 or 6 shall not be taken as an admission by the President<sup>1</sup> that the person on

(1) amended by L.N. 84/1966

(2) amended by Law 26/1966

## **C.208**

whom such notice has been served or any other person has any estate or interest in the property or any part of the property specified in the notice, or debar the President<sup>1</sup> from alleging in any proceedings under this Proclamation or otherwise that such property is owned by the State<sup>1</sup>.

### **Interest.**

30. If any award of compensation made in terms of this Proclamation exceeds the amount of compensation offered by the President<sup>1</sup>, there shall be added to such compensation interest at the rate of five per cent per annum calculated from the date upon which the President<sup>1</sup> took possession of the property concerned to the date of the payment of the amount of compensation awarded; provided that no interest whatsoever shall be payable in respect of compensation paid to the Ministry of Finance in terms of section 20.

### **Power of Minister<sup>2</sup> to Call for Statements.**

31. (1) The Minister<sup>2</sup> may require the owner, occupier or person in possession, or any person known or believed to be interested in any property of which the President<sup>1</sup> has taken possession or which is to be acquired compulsorily under this Proclamation, to deliver to him (within a time to be specified by him) a statement in writing containing, as far as may be practical, the name of every other person possessing any interest in the property, or any part thereof, as co-owner, mortgagee, lessee, sub-lessee, tenant or otherwise, and of the nature of such interest, and of the rents and profit, if any, received or receivable on account thereof for the period of three years next preceding the date of the statement.

(2) Every person who is required under the provisions of this section to deliver a statement and who —

- (a) without reasonable excuse refuses or neglects so to do, shall be guilty of an offence and liable on conviction to a fine not exceeding R20, or, in default of payment thereof, imprisonment not exceeding fourteen days; or
- (b) wilfully makes a false statement shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or, in default of payment thereof, imprisonment not exceeding six months.

### **Expenses of Board of Assessment.**

32. The President<sup>1</sup> may<sup>3</sup> prescribe the amounts to be paid to the Chairman and members of any Board —

- (a) in respect of travelling expenses and subsistence allowances; and
- (b) in respect of fees.

(1) amended by L.N. 84/1966

(2) amended by L.N. 28/1965

(3) amended by HMC Order 1/1963

**Schedule Part of Proclamation.**

33. The Schedule to this Proclamation shall be deemed to be and read as part of this Proclamation.

**Short Title.**

34. This Proclamation may be cited as the Acquisition of Property Proclamation.

**SCHEDULE**

**FORM A**

**BOTSWANA<sup>1</sup> ACQUISITION OF PROPERTY PROCLAMATION (SECTION 4)**

Notice is hereby given that the following property (*describe property, and in case of immovable property give reference to title deed, and the measurements and boundaries of area to be acquired, where practicable*) is required by the President<sup>1</sup> for public purposes absolutely (*or for a term of years as the case may be*).

Any person claiming to have any title or interest in the said property is required within two months from the date of this notice to send to the Minister<sup>2</sup> a statement of his title thereto or interest therein and of the evidence thereof, and of any claim made by him in respect of such title or interest.

The President<sup>1</sup> is willing to treat for the acquisition of the said property.

And Notice is also hereby given that the President<sup>1</sup> intends to enter into possession of the said property at the expiration of ..... weeks from the date of this notice.

Any person who shall wilfully hinder or obstruct any person employed by the President<sup>1</sup> from entering upon or taking possession of the said property or who shall molest, hinder or obstruct such person when in possession of the said property, is liable under the provisions of the above-named Proclamation on conviction to a fine of R50 or to imprisonment for three months.

Dated at ..... this ..... day of ..... 19 ....

.....  
Minister<sup>2</sup>

(1) amended by L.N. 84/1966

(2) amended by L.N. 28/1965



C.219

**FORM B**

**FORM OF SUMMONS**

**BOTSWANA<sup>1</sup> ACQUISITION OF PROPERTY PROCLAMATION (SECTION 9 (4))**

WHEREAS the President<sup>1</sup> has resolved that the following property is required for public purposes, viz. — (*here describe the property as described in Form A*).

Take Notice that a Board of Assessment will sit at (*place*) at (*time*) on the ..... day of ....., 19 ....., to hear and determine the following dispute arising out of the said acquisition (*here state dispute, e.g. the amount of compensation payable therefor, or the title or interest of A.B. and X.Y. in the said property, etc.*).

Where the summons is issued by the Minister<sup>2</sup>, and one of the questions to be decided is the amount of compensation to be paid, the following should be added:

The President<sup>1</sup> is willing to pay as compensation the sum of R .....

And where such property is part only of the property belonging to any person claiming title or interest therein:

The said sum of R ..... is made up as follows:

Gross value of the above-mentioned property R.....

Deduction for enhancement of the value of the residue R.....

Compensation which the President<sup>1</sup> is willing to pay R.....

NOTE.—If the person entitled or claiming to be entitled to the property is willing to accept the compensation above-mentioned, he shall notify his assent to the Minister<sup>2</sup> on or before the ..... day of ....., 19 .....

If such person is unwilling to accept such compensation, he shall on or before the said day inform the Minister<sup>2</sup> of the amount which he is willing to accept, and whether, in estimating such amount, he has allowed any sum for enhancement of any residue of the property, and, if so, the amount of the sum allowed.

If any person fails to comply with these instructions, the Board may order him to pay the costs of the proceedings.

Dated at ..... this ..... day of ....., 19 .....

.....  
Signature of person issuing summons and *locus standi*  
(e.g. Minister<sup>2</sup>, Owner of Freehold Title, Lessee, etc.).

To (*insert names of all parties interested in the dispute*).

(1) amended by L.N. 84/1966

(2) amended by L.N. 28/1965

C.211

**FORM C**

**BOTSWANA' ACQUISITION OF PROPERTY PROCLAMATION (SECTION 25)**

**WRIT OF POSSESSION**

To the Sheriff,

WHEREAS according to the provisions of the above-mentioned Proclamation, the President<sup>1</sup> is entitled to enter upon and take possession of the following property (*describe property*);

These are therefore to command you to put the President<sup>1</sup> or any person duly authorised by him in possession of the said property.

.....  
Registrar of the High Court.

**RULES OF COURT**

**Government Notice No. 20 of 1962**

**THE ACQUISITION OF PROPERTY PROCLAMATION**

1. These Rules may be cited as the Acquisition of Property — Board of Assessment Rules, 1962.

2. The form of notice requiring the attendance of any person as a witness before a Board of Assessment and/or to produce any document before the said Board shall be in the form set out in the Schedule hereto.

3. Service of the said notice may be effected by delivering to the person named a copy of the said notice and at the same time showing him the original and informing him of the exigency thereof.

4. Save as otherwise provided by the said Proclamation or by any Rule made at any time under section 28 (1) thereof the proceedings before the said Board shall be conducted in accordance with the practice and procedure observed in the High Court of Botswana in its civil jurisdiction with such variations as circumstances may require.

(1) amended by L.N. 84/1966

C.212

### SCHEDULE

In the matter of the Acquisition of Property Proclamation Chapter 118.

And in the matter of

Before the Board of Assessment to be holden at .....  
..... on the .....

To .....

You are hereby required to appear in person before the Board of Assessment  
at ..... on the ..... day of ....., 19 .....  
at the hour of ..... in the .....  
and so from day to day until you are released from further attendance to give  
evidence on behalf of .....

*(Where documents are required to be produced add:—)*

And to bring with you and then produce to the Court the several documents  
specified hereunder:—

And take notice that if without reasonable excuse you refuse or neglect to  
attend before the Board as a witness or to produce any document when required  
to do so by the Board you will be guilty of an offence and liable on conviction  
to a fine not exceeding R50, or, in default of payment thereof, to imprisonment  
not exceeding three months.

Signed

Chairman of the Board of Assessment.

**THE TRADE RETURNS PROCLAMATION  
(CHAPTER 152)**

as amended by

**THE TRADE RETURNS (AMENDMENT) PROCLAMATION, 1961**

(No. 26 of 1961)

(Promulgated 26th April, 1961)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

and

**THE TRADE RETURNS (AMENDMENT) ACT, 1966**

(No. 9 of 1966)

(Date of Commencement 21st December, 1966)

together with

**THE TRADE RETURNS (PRESCRIBED FORMS) REGULATIONS, 1966**

(Legal Notice No. 9 of 1966)

(Published on 21st January, 1966)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 24th March, 1967.

C.214

18 of 1923.  
23 of 1929.  
Cap. 125  
77 of 1953.

## CHAPTER 152

### TRADE RETURNS

*To provide for the rendering of returns of goods imported and exported.*

(1st April, 1923)

#### Short Title.

1. This Proclamation may be cited as the Trade Returns Proclamation.

#### Return by Licensees of Imports and Exports.

2. Every holder of a trading licence in Botswana<sup>1</sup> and every other person upon whom notice may be served in the form prescribed by regulation requiring him to make a return under this Proclamation, shall make annually to the President<sup>1</sup> a return of all articles imported by him into or exported by him from Botswana<sup>1</sup> during the period of twelve months from the <sup>2</sup>first day of July in any year to the thirtieth day of June in the following year.

The term "article" as used in this Proclamation shall include livestock, vehicles, farm produce, metals and precious stones, and all goods, wares and merchandise of any description whatsoever.

#### Procedure.

3. The return required under this Proclamation shall be in such form as may be prescribed by regulation, and <sup>2</sup> shall be filed with the <sup>3</sup>Ministry of Finance, Gaberones not later than <sup>2</sup>thirty days after the expiration of the period in respect of which the return is to be made.

#### Offences and Penalties.

4. (1) Any person required to make a return under this Proclamation who fails to make such a return in accordance with the provisions hereof shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R100 or to imprisonment for any period not exceeding three months, or to the like period of imprisonment without the option of a fine.

(2) If any holder of a trading licence in Botswana<sup>1</sup> fails to make a return as required by this Proclamation it shall be in the discretion of any <sup>3</sup>licensing authority to refuse to issue to such trader a new licence at the expiration of his current licence.

(1) amended by L.N. 84/1966

(2) amended by Proc. 26/1961

(3) amended by Act 9/1966

**False Statements in Returns.**

5. Any person who makes in any return filed by him under this Proclamation any statement which is false in any material particular, knowing the same to be false, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a period not exceeding three months or to the like period of imprisonment without the option of a fine.

**Publication of Information.**

6. Compilations of information contained in returns obtained under this Proclamation may be made and published in such manner as the President<sup>1</sup> may direct; provided that no return furnished by any person shall separately and alone be made public without the consent of the person making the return.

**Secrecy to be Observed.**

7. Any officer in the service of the Government who divulges except as allowed by this Proclamation the contents of any return filled up in pursuance of this Proclamation shall be guilty of an offence and be liable on conviction to a fine not exceeding R100 or in default of payment to imprisonment for a period not exceeding three months or to the like period of imprisonment without the option of a fine.

**Regulations.**

8. The President<sup>1</sup> may by notice in the *Gazette* make regulations not inconsistent with this Proclamation prescribing the form of returns to be made under this Proclamation and the particulars to be furnished therein and the form of notices to be served under this Proclamation and generally for carrying out the purposes of this Proclamation.

**Service of Notices.**

9. Any notice authorised under this Proclamation to be served upon any person shall be sufficiently and effectively served —

- (a) if personally served upon him; or
- (b) if left at his usual or last place of abode or office or place of business in Botswana<sup>1</sup>; or
- (c) if sent in a registered letter addressed to such place of abode, office or place of business or to his usual or last postal address in Botswana<sup>1</sup>;

and in the case of a company shall be sufficiently and effectively served if served on any manager or agent of the company in Botswana<sup>1</sup>.

(1) amended by L.N. 84/1966

**C.216**

L.N. 9 of 1966.

**TRADE RETURNS**

**FORMS OF RETURNS TO BE MADE**

(Under section 8)

(21st January, 1966)

**THE TRADE RETURNS (PRESCRIBED FORM) REGULATIONS, 1966**

Return of imports and exports for the twelve months ending on the 30th June,

**PART I — RETURN OF IMPORTS**

Please state the value in Rands and the quantity (where applicable) of all goods in the following categories purchased by you directly from outside Botswana from 1st July, 19.... to 30th June, 19....

	Value of Imports from			Quantity Imported
	South Africa	Rhodesia	Elsewhere (specify)	
	R	R	R	
<b>FOOD, DRINK TOBACCO</b>				
Sorghum				Bags
Maize				Bags
Maizemeal				Bags
Millet				Bags
Wheat				Bags
Wheatflour				Bags
Sugar				Pockets
Salt				Lbs.
Eggs				Gross
Groundnuts				Bags
Dairy Products				Lbs.
Beans, Peas Lentils				Bags
Processed Meat and Fish				
Beer				Galls.
Wines				Galls.
Spirits				Galls.
Carbonated Soft Drinks (e.g. Sodas, Colas, etc.)				
Other Food and Drink				
Cigarettes and Tobacco				
<b>LIVESTOCK</b>				
<b>LIVESTOCK FEED</b>				
Cereal By-products				Bales/Bags
Oilcakes and meals				Bales/Bags
Other concentrates				Bales/Bags
Carried Forward Values Only				



C.218

	Value of Imports from			
	South Africa	Rhodesia	Elsewhere (specify)	Quantity Imported
	R	R	R	
Brought Forward				
Hays, various				Bales/Bags
COTTON SEEDS				
CLOTHING & TEXTILES				
Shoes and boots				Pairs
Blankets and rugs				Number
Other clothing				
Textile Fabrics and piece goods				
BUILDING MATERIALS				
of Wood				Cub. Ft.
of Glass				Sq. Ft.
Cement				Pockets
Bricks				Number
Corrugated Iron Sheetting				Feet
Other Building Materials				
MACHINERY & TRANSPORT EQUIPMENT				
Farm Machinery and Implements				
Tractors				Number
Motor Vehicles				Number
Vehicle Part and servicing				
Radios				Number
Bicycles				Number
Sewing Machines				Number
Other Machinery and Equipment				
FUELS AND CHEMICALS				
Coal				Tons
Petroleum Products				
Fertiliser				Bags
Pesticides				Galls./Lbs.
Carried Forward				

C.219

	Value of Imports from			
	South Africa	Rhodesia	Elsewhere (specify)	Quantity Imported
	R	R	R	
Brought Forward				
Fungicides				Galls./Lbs.
Medical and Pharmaceutical				
Other Chemical Products				
FIREARMS AND AMMUNITION				
ALL OTHER IMPORTS				
<b>TOTAL IMPORTS</b> (Values Only)				

☐

Tick here if values include cost of transport.

☐

Tick here if you wish to receive the national total.

C.220

## PART II — RETURN OF EXPORTS

Please state the value in Rands and the quantity (where applicable) of all goods in the following categories sold directly outside Botswana, between 1st July 19.... and 30th June 19....

	Value of Export to			
	South Africa	Rhodesia	Elsewhere	Quantity
	R	R	R	
Sorghum				
Maize				
Maizemeal				
Wheat				
Wheat flour				
Beans, Peas, Lentils				
Groundnuts				
Tobacco				
Citrus Fruits				
Cotton				
Butter and Butterfat				
Other Animal Products				
Other Exports (Please Specify)				
<b>TOTAL EXPORTS</b>				

**CIRCUMCISION AND INITIATION RITES PROCLAMATION  
(CHAPTER 75)**

as amended by

**THE GENERAL LAW (REMOVAL OF DISCRIMINATION)  
REVISION LAW, 1964**

(No. 28 of 1964)

(Promulgated 4th November, 1964)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of Commencement 30th September, 1966)

Reprinted by the direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 14th April, 1967.

**C.222**

41 of 1917.

14 of 1931.

Cap. 66

28 of 1964.

Legal Notice

84 of 1966.

## **CHAPTER 75**

### **CIRCUMCISION AND INITIATION RITES**

*To restrict, regulate and control rites of circumcision and initiation.*

(21st December, 1917)

#### **Short Title.**

1. This Proclamation may be cited as the Circumcision and Initiation Rites Proclamation.

#### **Application as to Area.**

2. The President may by notice in the Gazette from time to time specify the areas within Botswana to which the provisions of this Proclamation shall apply and the said provisions shall apply accordingly within each such area from the date fixed by the respective notice.

#### **Interpretation.**

3. (i) For the purposes of this Proclamation "young person" shall mean any person male or female under the age of sixteen years.

(ii) "Guardian" shall in respect of any prosecution under this Proclamation include any person who in the opinion of the Court before which the prosecution is being heard had at the time at which the offence is alleged to have been committed the charge or control over the young person concerned.

#### **Offences Relating to Circumcision.**

4. Any person who causes or procures or aids or attempts to cause or procure any young person within Botswana to undergo or take part in any rite of circumcision or initiation including rites known respectively as Bogwera and Boyali without the consent of either parent or of the guardian of such young person, shall be guilty of an offence and liable on conviction to a penalty not exceeding R100 or to imprisonment with or without hard labour for a period not exceeding one year.

**Presumptions as to Age.**

5. Where in any prosecution under this Proclamation a question is raised as to the age of any person in respect of whom an offence under this Proclamation is alleged to have been committed, and it shall appear to the Court before which the prosecution is being heard that the person in question was at the date on which the offence is alleged to have been committed, under the age of sixteen years, such person shall for the purposes of this Proclamation be deemed to have been under that age on such date unless the contrary is proved.

**Private Land Defined.<sup>1</sup>**

6. For purposes of section 7 “private land” means any land the ownership of which has by law, grant or title deed become vested in any person other than the Government of Botswana<sup>2</sup> or a Tribe.

**Offence and Penalty.**

7. Any person<sup>3</sup> who contravenes the provisions of section 4 and any person who causes or procures or aids or attempts to cause or procure any person<sup>3</sup> to undergo or take part in any rite of circumcision or initiation, including the rites known respectively as Bogwera and Boyali, on any private land<sup>3</sup> shall be guilty of an offence and be liable on conviction to imprisonment with or without hard labour for a period not exceeding one year.

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(1) replaced by Law 28 of 1964.

(2) amended by Legal Notice 84 of 1966.

(3) amended by Law 28 of 1964.

C.224

CIRCUMCISION AND INITIATION RITES

(Under section *two*)

145 of 1917.  
14 of 1918.  
64 of 1923.  
3 of 1931.  
128 of 1945.  
128 of 1957.

The provisions of the Circumcision and Initiation Rites Proclamation shall apply to the areas set out in the first column of the Schedule hereto, with effect from the dates set out in the second column of the Schedule hereto.

SCHEDULE

Bangwato Tribal Territory .....	1.1.1918
Bangwaketse Tribal Territory .....	1.1.1918
Bakwena Tribal Territory .....	1.1.1918
Tati District of Botswana <sup>1</sup> .....	1.1.1918
Batawana Tribal Territory .....	1.2.1918
Lobatsi Block .....	1.8.1923
Bamalete Tribal Territory .....	1.2.1931
Kgalagadi District .....	5.9.1945
Ghanzi District .....	1.1.1958

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(1) amended by Legal Notice 84 of 1966.

**THE REFORMATORIES PROCLAMATION  
(CHAPTER 66)**

as amended by

**THE REFORMATORIES (AMENDMENT) LAW, 1962**  
(No. 18 of 1962)  
(Promulgated 7th August, 1962)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**  
(Legal Notice No. 84 of 1966)  
(Date of Commencement 30th September, 1966)

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Amendments Incorporation Law, 1961.

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C.226

81 of 1921.  
21 of 1932.  
22 of 1936.  
Cap. 55  
18 of 1962.  
Legal Notice  
84 of 1966.

## CHAPTER 66

### REFORMATORIES

*To enable the Courts to punish juvenile and juvenile adult offenders by ordering their detention in reformatories, to provide for the detention of such persons and for matters incidental thereto.*

(2nd December, 1921)

#### Short Title.

1. This Proclamation may be cited as the Reformatories Proclamation.

#### Interpretation.

2. In this Proclamation unless inconsistent with the context —

“juvenile” shall mean —

(1) any person under the age of 16 years; and

(2) any person under the age of 18 years whose classification as a juvenile has been expressly sanctioned by the President<sup>1</sup>;

“juvenile adult” shall mean —

(1) any person who is between the ages of 16 and 21 years; and

(2) any person who is between the ages of 21 and 25 years and whose classification as a juvenile adult has been expressly sanctioned by the President<sup>1</sup>;

“juvenile adult reformatory” shall include in addition to any institution established as such any division of a gaol or juvenile reformatory similarly established or an industrial school;

“regulation” shall mean any regulation made under this proclamation;

(“the Union”)<sup>2</sup>

#### Detention of Juveniles in Reformatories and Trials in Camera.

3. (1) Whenever any juvenile is convicted of an offence punishable with imprisonment, the Court may order him to be sent to a juvenile reformatory and to be there detained for a period of not less than two years and not more than five

(1) Amended by Legal Notice 84/1966

(2) Deleted by Law 18 of 1962

years, or in the alternative may sentence him to imprisonment; provided that the period for which a juvenile is so detained in a juvenile reformatory shall expire at the date on which or before he attains the age of eighteen years.

(2) The trial of any such juvenile may in every case be held *in camera* and in some other place than in an ordinary Court-room, provided that in such case the parent or guardian or other person interested in such juvenile shall have the right to be present thereat.

#### **Procedure on Sentence.**

4. Whenever any Court orders a juvenile to be detained in a juvenile reformatory a warrant shall be issued by the Court for that purpose setting forth the offence for which the juvenile has been convicted, the period for which he is to be detained and his age, and the said warrant shall be transmitted to such officer as the President<sup>1</sup> may direct and shall be the authority for the conveyance of the juvenile to a juvenile reformatory and his detention therein. There shall be transmitted with such warrant by the Court to such officer an account, in such form as the President<sup>1</sup> may prescribe, of the history and antecedents of the juvenile so far as may be ascertainable by the Court.

#### **Detention of Juvenile Adults.**

5. The Court before which any juvenile adult is convicted may, instead of imposing a sentence of imprisonment, order that he be detained in a juvenile adult reformatory for a period of not less than two and not more than five years and the provisions of the preceding section shall thereupon apply *mutatis mutandis* to such juvenile adult.

6.<sup>2</sup>

7.<sup>2</sup>

8.<sup>2</sup>

9.<sup>2</sup>

10.<sup>2</sup>

#### **Presumption of Age.**

11. A person shall for the purposes of this Proclamation be presumed to be a juvenile or juvenile adult if it appears to the Court before which he is tried that he is within the limits of age prescribed for a juvenile or juvenile adult as the case may be.

12.<sup>2</sup>

Schedule <sup>2</sup>

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(1) amended by Legal Notice 84 of 1966.

(2) repealed by Law 18 of 1962.



**SMALL LOTTERIES LAW, 1961**

(No. 28 of 1961)

(Promulgated 8th May, 1962)

as amended by

**SMALL LOTTERIES (AMENDMENT) LAW, 1963**

(No. 2 of 1963)

(Promulgated 10th October, 1963)

Reprinted by the direction of the Attorney-General in terms of section 3 of the Amendment Incorporation Law, 1961.

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**C.230**

**THE SMALL LOTTERIES LAW, 1961**

(No. 28 of 1961)

*A law to authorize the promotion of certain small lotteries subject to conditions and to provide for matters incidental thereto.*

**Short Title**

1. This law may be cited as the Small Lotteries Law, 1961.

**Interpretation**

2. In this law unless the context otherwise requires —

“Society” includes a club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such club, organisation or association.

**Certain Small Lotteries not Unlawful.**

3. A lottery shall be deemed not to be an unlawful lottery if it is promoted on behalf of a society registered by a District Commissioner in terms of section *five* and is promoted and conducted in accordance with the provisions of section *six*.

**Societies which may be Registered.**

4. A society established and conducted wholly or mainly for one or more of the following purposes, that is to say —

- (a) charitable purpose;
  - (b) participation in or support of athletic sports or games or cultural activities;
  - (c) purposes not described in paragraphs (a) and (b) of this section and not being purposes of private gain or purposes of any commercial undertaking;
- may apply to be registered by a District Commissioner in terms of section *five*.

**Registration of Societies.**

5. (1) An application for the registration of a society under this Law shall be made to the District Commissioner in whose district the head office of the society is established and conducted; and subject to the provisions of this section, the District Commissioner may, upon application duly made on behalf of a society and on payment of a fee of five rand, register the society in a register to be kept for the purposes of this Law, and notify the society in writing that he has done so.

- (2) The District Commissioner may, after giving the society concerned an opportunity of being heard, refuse to register a society under this Law, or revoke

the registration under this Law of a society, if it appears to the District Commissioner —

- (a) that any person has been convicted of an offence committed in connection with a lottery promoted or proposed to be promoted on behalf of the society, being an offence under this Law or an offence committed after the commencement of this Law under any other law relating to lotteries; or
- (b) that the society is not or has ceased to be a society which in terms of section *four*, may apply to be registered; or
- (c) that for any other reason he deems it to be in the public interest so to do.

(3) Where registration has been refused or revoked under this section, the District Commissioner shall forthwith notify the society in writing accordingly and the society may within fourteen days of such notification appeal in writing against the refusal or revocation to the Minister<sup>1</sup> whose decision shall be final.

(4) Where a District Commissioner revokes a registration under this section, then, until the time within which notice of appeal under this section may be given has expired and, if such notice is duly given, until the appeal, the registration shall be deemed to continue in force.

(5) A society which is for the time being registered under this Law may at any time apply to the District Commissioner for the cancellation of the registration; and in any such case the District Commissioner shall cancel the registration accordingly.

(6) Every society which is registered under this Law shall pay to the District Commissioner during the first seven days of January in each year while it is so registered as fee of two rand, and thereafter while such fee remains unpaid shall be deemed not to be a society registered under this law.

#### **Conditions to be Observed in Promotion and Conduct of Lottery.**

6. (1) The following conditions shall for the purpose of section *three* be observed in the promotions and conduct of the lottery —

- (a) the promoter of the lottery shall be a member of the society authorised in writing by the governing body of the society to act as such;
- (b) no remuneration shall be paid in respect of the lottery to the promoter, or to any person employed by him in connection therewith;
- (c) no prize shall exceed two thousand rand in amount or value, and no ticket or chance shall be sold at a price exceeding one rand;<sup>2</sup>
- (d) the whole proceeds, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes, shall be applied to purposes of the society, being purposes described in paragraph (a) (b) or (c) of section *four*;

(1) Amended by L. N. Notice No. 94/1966.

(2) Amended by Law 2/1963.

C.232

- (e) subject to the provisions of paragraph (b) of the proviso to section seven, the amount of the proceeds appropriated on account of expenses shall not exceed the expenses actually incurred, or ten per cent of the whole proceeds, whichever is the less, and the amount of the proceeds appropriated for the provision of prizes shall not exceed sixty-five per cent<sup>1</sup> of the whole proceeds;
- (f) the price of every ticket or chance shall be the same, and the price of any ticket shall be stated on the ticket;
- (g) the total value of the tickets or chances sold shall not exceed two thousand five hundred rand and if on any day on which tickets or chances in the lottery are on sale, tickets or chances are on sale in another lottery to which this Law applies promoted on behalf of the society, the total value of the tickets or chances sold in these lotteries taken together shall not exceed two thousand five hundred rand;
- (h) no money received by the promoter for or on account of a ticket or chance shall in any circumstances be returned<sup>1</sup>;
- (i) every ticket and every notice or advertisement of the lottery lawfully exhibited, distributed or published, shall specify the name of the society, the name and address of the promoter and the date on which the draw, determination or event by or by reference to which the prize-winners are ascertained will take place;
- (j) no ticket shall be sent through the post to a person not being a member of the society;
- (k) no person shall be admitted to participate in the lottery in respect of a ticket or chance except after payment to the promoter of the whole price of the ticket or chance:

Provided that a person employed by the promoter to sell tickets or chances in a lottery may be admitted to participate in such lottery in respect of such free tickets or chances as the promoter may award to him, which award shall not exceed more than one free ticket or chance for each twenty tickets or chances sold by such person in such lottery<sup>1</sup>.

(1) Subject to the provisions of paragraph (b) of the proviso to section seven no payment on account of expenses or prizes shall be made out of moneys of the society not being proceeds of the lottery; and

- (1) no ticket or chance shall be sold by or to a person under sixteen years of age.

(2) For the purposes of this section tickets or chances in a lottery shall be deemed to be on sale on each day between the dates on which such tickets or chances are first and last sold, whether or not any such ticket or chance is sold on that day.

(1) Amended by Law 2/1963.

**Penalties.**

7. If any condition required by section *six* to be observed in respect of a lottery promoted in accordance with the provisions of section *three* is contravened, the promoter of the lottery and any other person who is party to the contravention shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment:

Provided that —

- (a) it shall be a defence for a person charged with an offence only by reason of his being the promoter to prove that the contravention took place without his knowledge;
- (b) it shall be a defence for any person charged with an offence in respect of an appropriation or payment made in contravention of paragraph (e) or paragraph (1) of subsection (1) of section *six* to prove that the proceeds of the lottery fell short of the sum reasonably estimated, that the appropriation or payment was made in respect of expenses actually incurred or in order to fulfil an unconditional undertaking as to prizes given in connection with the sale of the relevant tickets or chances, and that the total amounts appropriated or paid in respect of expenses and prizes did not exceed the amounts which could lawfully have been appropriated out of the proceeds of the lottery under the said paragraph (e) if the said proceeds had amounted to the sum reasonably estimated.

**Returns to be Made by Promoters.**

8. (1) The Promoter of a lottery to which section *three* applies shall, within one month from the date on which the winners of prizes in the lottery are ascertained, send to the District Commissioner in whose district the society is registered in terms of section *five* a return certified by two other members of the society being persons of full age authorised in writing by the governing body of the society for such purpose, showing —

- (a) the whole proceeds of the lottery;
- (b) the sums appropriated out of these proceeds on account of expenses and on account of prizes respectively;
- (c) the particular purpose or purposes to which proceeds of the lottery were applied in pursuance of paragraph (d) of subsection (1) of section *six*, and the amount applied for that purpose, or for each of those purposes, as the case may be; and
- (d) the dates between which tickets or chances in the lottery were sold.



**C.234**

(2) The District Commissioner to whom any return is sent under this section shall preserve the return for a period of at least one year and during that period shall keep it at his office and permit any member of the public to inspect it during office hours.

(3) Any person who fails to send a return in accordance with the provisions of this section, or who in any return sent by him thereunder knowingly gives any information which is false or misleading or who certifies any return to be sent under this section knowing it to contain any such information, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand, or, in default of payment thereof to imprisonment not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

**THE PUBLIC SERVICE COMMISSION (SUPPLEMENTARY PROVISIONS)  
REGULATIONS 1965 and 1967**

(Legal Notice No. 41 of 1965)  
(Published on 3rd September, 1965)

as amended by

**THE PUBLIC SERVICE (GENERAL QUALIFICATIONS)  
REGULATIONS, 1967**

(Statutory Instrument No. 21 of 1967)

(Published 31st March, 1967)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF  
EXISTING LAWS (NO. 12) ORDER 1967**

(Statutory Instrument No. 53 of 1967)

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**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

1. Citation
2. Interpretation and Application

**PART II**

**PUBLIC SERVICE COMMISSION**

14. Privilege from Disclosure in Legal Proceedings
15. Protection of Members from Legal Proceedings
16. Consultations with Public Officers
17. Documents to be Made Available
19. Improper Influence
20. Penalty for Supplying False Information to Commission
21. Unauthorised Disclosure or Use of Information
22. Commission's Annual Report

**PART III**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

**B. PROCEDURE**

28. Maintenance of an Annual Confidential Report System
29. Reporting of Vacant Public Offices: Procedure Relating to Appointment Thereto
31. Acting Appointments

**PART IV**

**CONFIRMATION AND TERMINATION OF APPOINTMENT**

34. Probationary Appointments
35. Termination of Contract Appointments
36. Termination of Temporary Engagements
37. Abolition of One of a Number of Offices
38. Retirement of Officers at Normal Retiring Age
- 38A. Retirement at or After Prescribed Age
- 38B. Compulsory Retirement on Medical Grounds
- 38C. Compulsory Retirement on Marriage
39. Compulsory Retirement in Other Circumstances

**PART V**

**DISCIPLINARY CONTROL AND PROCEEDINGS**

**A. GENERAL**

40. Disciplinary Control to be Prompt
41. Criminal Proceedings
45. Salary of Interdicted Officer

**B. DISCIPLINARY PROCEEDINGS**

- 46. Procedure: Departmental Preliminary Investigation
- 47. Charges
- 48. Reporting of Case to the Commission
- 49. Inquiry
- 50. Documentary Evidence
- 51. Witnesses
- 52. Representation of Government and Officer
- 53. Report by Committee
- 57. Disciplinary Matters Not Otherwise Provided For
- 58. Punishments

**C. INCREMENTS**

- 59. Stoppage, Withholding and Restoration of Increment

**PART VI**

**SUPPLEMENTARY**

- 60. Extension of Period , of Contract
- 62. Conversion of Temporary or Contract Terms to Pensionable Terms

**FIRST SCHEDULE**

(regulation 2 (1))

**FOURTH SCHEDULE**

(regulation 47)

**PART A**

**FORM OF CHARGE**

**PART B**

**SPECIMEN CHARGES**

**PART I**  
**PRELIMINARY**

**Citation**

1. These regulations may be cited as the Public Service Commission (Supplementary Provisions) Regulations, 1965, and 1967.<sup>1</sup>

**<sup>2</sup>Interpretation and Application**

2. (1) In these regulations, unless the context otherwise requires —

“Chairman” means the Chairman of the Commission and includes a person acting as Chairman under section 110(10) of the Constitution and another member performing the functions of the Chairman under section 110(9) thereof;

“Commission” means the Public Service Commission;

“contract” means a written contract of a fixed maximum duration;

“General Orders” means the General Orders of the Government as in force from time to time;

“member” means a member of the Commission and includes the Chairman and any person acting as a member of the Commission under section 110(10) of the Constitution;

“responsible officer” in relation to any public officer, means, subject to the provisions of paragraph (3), and except as provided in the First Schedule, the Permanent Secretary of the Ministry in or under the control of which he is serving or if the Permanent Secretary to the President has, in terms of paragraph (2), appointed some other person as responsible officer for any class of public officer to which that public officer belongs, such other person;

“Secretary” means the Secretary to the Commission.

“service” means the public service.”.

(2) The Permanent Secretary to the President may, by direction in writing, appoint the holder of any public office to be the responsible officer for any class of public officer specified in the direction.

(3) Notwithstanding that in terms of this regulation some other person is the responsible officer, the Permanent Secretary to the President may at any time exercise the functions of a responsible officer in any matter falling under these regulations, and if he does so he and not the other person shall be regarded for the purposes of that matter as the responsible officer.

(4) Except as provided in regulation 58 nothing in these regulations shall apply to the appointment, disciplinary control or removal from office of any public officer by any person or body, other than the Commission, acting under lawful authority.

3.<sup>3</sup>

4.<sup>3</sup>

5.<sup>3</sup>

6.<sup>3</sup>

7.<sup>3</sup>

8.<sup>3</sup>

- 9.<sup>1</sup>
- 10.<sup>1</sup>
- 11.<sup>1</sup>
- 12.<sup>1</sup>
- 13.<sup>1</sup>

#### **Privilege from Disclosure in Legal Proceedings.**

14. Any report, statement or other communication or record of any meeting, enquiry or proceeding which the Commission may make in the exercise of its functions or any member may make in performance of his duties shall be privileged in that its production may not be compelled in any legal proceedings if the President<sup>2</sup> certifies that such a production is not in the public interest.

#### **Protection of Members from Legal Proceedings**

15. Every member shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duties as is by law given to the acts done or words spoken by a Judge of the High Court in the exercise of his judicial office.

#### **Consultations with Public Officers<sup>2</sup>**

16. The Commission may require any public officer to attend and give evidence before it concerning any matter which it is required to consider in exercise of its functions and may require the production of any official document relating to any such matter:

Provided that no secret official document shall be so produced without the prior consent of the President<sup>2</sup>.

#### **Documents to be Made Available**

17. Any public officer who submits any matter for the consideration of the Commission shall, subject to the proviso in regulation 16, ensure that all relevant documents and papers are made available to the Commission.

- 18.<sup>1</sup>

#### **Improper Influence**

19. Any person who otherwise than in the course of his duty directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Commission or of the Chairman or of any member shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment not exceeding six months or to both such fine and imprisonment:

Provided that nothing in this regulation shall prohibit any person who may properly do so from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

#### **Penalty for Supplying False Information to Commission**

20. Any person who in connection with any application by any person for employment or promotion in the service or with any matter upon which it is the duty of the Commission to advise wilfully gives to the Commission or any member thereof any information which he knows to be false or does not believe to be true, or which he knows to be misleading

(1) repealed by S.I. 53 of 1967

(2) amended by S.I. 53 of 1967

## **C.240**

by reason of the omission of any material particular, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

### **Unauthorised Disclosure or Use of Information**

21. (1) No member or other person shall publish or disclose to any person, otherwise than in the exercise of his official functions<sup>1</sup> or with the written permission of the President<sup>1</sup> the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in respect of any matter referred to the Commission. Any person who knowingly acts in contravention of this regulation shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

(2) If any person having possession of any information which to his knowledge has been published or disclosed in contravention of the provisions of paragraph (1) publishes or communicates to any other person, otherwise than for the purpose of any prosecution under these regulations, any such information he shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment not exceeding one year or to both such fine and imprisonment.

### **Commission's Annual Report**

22. The Commission shall annually submit a report to the President<sup>1</sup> in respect of the discharge of all its functions during the previous year and the President shall lay every such report before the National Assembly<sup>1</sup>.

23<sup>2</sup>.

## **PART III**

### **APPOINTMENTS, PROMOTIONS AND TRANSFERS**

#### **PRINCIPLES AND PROCEDURE**

##### **A. PRINCIPLES**

24.<sup>2,3</sup>

25.<sup>2,3</sup>

26.<sup>2,3</sup>

27.<sup>2,3</sup>

##### **B. PROCEDURE**

#### **Maintenance of an Annual Confidential Report System**

28. In order to enable the Commission to discharge its duties under the Constitution it shall maintain a system of annual confidential reports on officers and responsible officers shall comply with any directions that the Commission may give in this regard.<sup>1</sup>

#### **Reporting of Vacant Public Offices: Procedure Relating to Appointments Thereto**

29. As soon as a responsible officer knows or has reason to believe that a vacant office exists or is likely to exist in his department he shall, subject to the provisions of regulation 31, report the fact to the Secretary in such form as the Commission may determine.<sup>1</sup>

(1) amended by S.I. 53 of 1967 (2) repealed by S.I. 53 of 1967 (3) repealed by S.I. 21 of 1967

30.<sup>1</sup>**Acting Appointments**

31. As soon as a responsible officer knows that the holder of an office in his department which attracts acting allowance or has specific statutory functions is or will become unable to perform the functions of that office for some temporary period, and the responsible officer is of the opinion that the office should be filled in an acting capacity, he shall report the fact to the Secretary in such form as the Commission may determine.<sup>2</sup>

32.<sup>1</sup>33.<sup>1</sup>**PART IV****CONFIRMATION AND TERMINATION OF APPOINTMENT****Probationary Appointments**

34. (1) Where a public officer holds a probationary appointment, the responsible officer shall, three months before the expiration of the period of that probationary appointment consider —

- (a) whether that officer should on that expiration be confirmed in a pensionable office;
- (b) whether a further period of probationary service is necessary to determine whether that officer should be so confirmed; or
- (c) whether that officer should not remain in the service.

(2) If after consideration of the matters referred to in subregulation (1), the responsible officer is of the opinion that an officer in a probationary appointment should be confirmed in a pensionable office and if the officer has passed such examinations as may be required as a condition for confirmation in his appointment, the responsible officer, not later than three months before the expiration of the period of probationary appointment shall forward to the Commission his recommendation that the officer should be so confirmed.<sup>3</sup>

(3) If after consideration of the matters referred to in subregulation (1), the responsible officer is of the opinion that the work or conduct of a public officer in a probationary appointment have been of a standard to justify confirmation in a pensionable office, but the officer has not completed the examinations required for his confirmation, the responsible officer, not later than three months before the expiration of the officer's probationary appointment shall forward a full report to the Commission together with his recommendations as to the period of further probationary service which the officer should be allowed in order that the officer may pass the required examinations.<sup>3</sup>

(4) If after consideration of the matters referred to in subregulation (1) the responsible officer is of the opinion that the work or conduct of a public officer in a probationary appointment has not been in all respects satisfactory, he shall recommend either —

- (a) an extension of that officer's probationary service to show whether he can overcome specific defects; or
- (b) that his probationary appointment should be terminated;



## C.242

and before so doing shall inform the officer of his intention and at the same time inform him that he is entitled to make representations, within a period to be fixed by the responsible officer, on the recommendation proposed. On the expiration of the period, the responsible officer shall forward to the Secretary a report on the officer, together with a copy of the letter to the officer and of the latter's representations, if any, with a recommendation whether the period of probationary service should be extended or that the officer should not remain in the service<sup>1</sup>.

(5) Where an officer holds a probationary appointment and the responsible officer at any time during the period of that probationary appointment is of the opinion that the appointment should be terminated forthwith the procedure in sub-regulation (4) (following the alternative in paragraph (b) thereof) shall be followed.

### Termination of Contract Appointments

35. (1) If a responsible officer considers that the contract of a public officer serving on contract terms should be terminated<sup>1</sup> before the normal expiration of the contract in terms of any provision in the contract for such purpose, but on grounds which do not fall to be dealt with under the provisions of Part V, the responsible officer shall inform the officer in writing that he proposes to recommend the termination of his contract in terms of such provision, giving the reasons therefor, and invite his representations in the matter in writing. The responsible officer may then recommend to the Commission the termination of the officer's contract in accordance with the terms of his contract, with a copy of any representations the officer has made.

(2) If, on consideration of a recommendation made by a responsible officer under paragraph (1), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions.<sup>2</sup>

### Termination of Temporary Engagements

36. (1) For so long as any public office is held on temporary engagement, the responsible officer shall, before the expiration of a period of six months from the commencement of such engagement and of every subsequent period of six months thereafter, report the office to the Commission in terms of regulation 29<sup>1</sup>, as if a vacancy would exist in such office at the expiration of such period.

(2) If a responsible officer considers that a public officer serving on temporary engagement should be dismissed otherwise than at the time of any report to the Commission under the preceding provision of this regulation, and on grounds which do not fall to be dealt with under Part V, he shall forward a recommendation to such effect to the Commission giving his reasons<sup>1</sup>:

Provided that if it thinks fit the Commission may before taking further action in the matter<sup>1</sup> require the responsible officer to follow the procedure prescribed in regulation 35.

### Abolition of One of a Number of Offices<sup>2</sup>

37. Where an office which is one of a number of such offices, is to be or has been abolished but one or more of such offices are to remain, the responsible officer shall recommend to the Commission with his reasons as to which of the officers holding such offices shall have his appointment terminated and the Commission shall determine which it shall be.<sup>1</sup>

(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

(3) headnote substituted S.I. 53 of 1967

**<sup>1</sup>Retirement of Officer at Normal Retiring Age**

38. Not later than 6 months before a public officer who holds a pensionable office attains the age referred to in section 9(a) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the public service on attaining that age give reasons in writing in support thereof.

**<sup>2</sup>Retirement at or After Prescribed Age**

38A. If a responsible officer is of the opinion that a public officer in his department who holds a pensionable office should be called upon to retire from the public service on the grounds that he has attained the age referred to in section 9(b) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), he shall —

- (a) inform the officer that he intends to recommend that he be compulsorily retired from the public service;
- (b) ask the officer concerned whether he wishes to make, within a period of time appointed by the responsible officer, any representations why he should not be so retired; and
- (c) after the expiration of such period, forward his recommendation to the Secretary together with a copy of any representations made by the officer concerned and his comments thereon.

**<sup>2</sup>Compulsory Retirement on Medical Grounds**

38B. If a responsible officer has reason to believe that a public officer in his department is incapable by reason of any infirmity of mind or body likely to be permanent of discharging the duties of his office he shall report the matter to the Commission and inform the officer in writing that he has done so. The Commission may call upon the officer in question to submit to examination by a medical officer or officers nominated by it for the purpose of ascertaining the officer's condition.

**<sup>2</sup>Compulsory Retirement on Marriage**

38C. If a female officer who holds a pensionable office marries, the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the Public Service by reason of such marriage give reasons in writing in support thereof.

**<sup>1</sup>Compulsory Retirement in Other Circumstances**

39. (1) If the Permanent Secretary to the President considers that a public officer who holds a pensionable office should be required to retire from the service —

- (a) for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy be effected; or
- (b) on the grounds that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, termination of the officer's service is desirable in the public interest;

he shall —

- (i) obtain from the responsible officers of every Ministry or department in which the officer has served reports as to his work and conduct;
- (ii) allow the officer an opportunity of considering such reports and of showing cause why he should not be retired from the public service.

## **C.244**

(2) If the Permanent Secretary to the President, after considering the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired from the public service on the said grounds, he shall forward to the Secretary the reports obtained in pursuance of paragraph (i) of paragraph (1) and the statement of the officer, together with his own recommendation.

(3) If, upon consideration of the report made by the Permanent Secretary to the President under paragraph (2), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions.

## **PART V**

### **DISCIPLINARY CONTROL AND PROCEEDINGS**

#### **A. GENERAL**

##### **Disciplinary Control to be Prompt**

40. All acts of misconduct by officers shall be dealt with under these regulations as soon as possible.

##### **Criminal Proceedings**

41. When a preliminary investigation or a disciplinary inquiry discloses that an offence against any law may have been committed by an officer, the responsible officer, unless action by the Police has been or is about to be taken, shall consult the Attorney-General as to whether a prosecution is to be instituted.

42<sup>1</sup>.

43<sup>1</sup>.

44<sup>1</sup>.

##### **Salary of Interdicted Officer<sup>2</sup>**

45. (1) If, any officer has in terms of General Orders been interdicted<sup>3</sup> from exercising the powers and functions of his office, the Commission shall determine<sup>3</sup> what portion (not being less than one-half) of the emoluments of such office he should be allowed to receive during interdiction.

(2) If at the conclusion of any disciplinary proceedings in contemplation of which any officer has been so interdicted such officer is awarded any punishment other than dismissal, the Commission shall determine<sup>3</sup> what proportion (if any) of the emoluments withheld from him as a result of the interdiction shall be refunded.

#### **B. DISCIPLINARY PROCEEDINGS**

##### **Procedure: Departmental Preliminary Investigation**

46. When a responsible officer is advised or becomes aware of allegations of misconduct against an officer in his department he shall if necessary cause a departmental preliminary investigation to be made to establish the facts of the matter and to enable him to decide whether he should prefer a charge of misconduct against that officer.

##### **Charges**

47. (1) If the responsible officer considers that there is a *prima facie* case of misconduct against the officer which it does not properly fall to him to deal with under any

(1) repealed by S.I. 53 of 1967

(2) headnote substituted by S.I. 53 of 1967

(3) amended by S.I. 53 of 1967

## C.245

powers conferred upon him by lawful authority<sup>1</sup> against an officer he shall prepare such charge setting out the misconduct alleged.

(2) The forms set out in the Fourth Schedule or forms conforming thereto as nearly as may be may be used in cases to which they are applicable; and in other cases forms to the like effect or conforming thereto as nearly as may be may be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.

(3) The responsible officer shall transmit the charge to the officer, and call upon him to state in writing within a reasonable specified time any grounds upon which he wishes to exculpate himself.

### Reporting of Case to the Commission

48. If the officer does not furnish such a statement within the time specified, or if he fails to exculpate himself to the satisfaction of the responsible officer, the latter shall report the matter to the Secretary. The report shall contain a copy (a) of any record made of the departmental preliminary investigation (b) a copy of the charges preferred against the officer (c) a copy of any written statement he has made in reply and (d) the responsible officer's view as to the seriousness of the misconduct which the officer is alleged to have committed.

### Inquiry

49. (1) If the Commission on considering the responsible officer's report decides that an inquiry should be conducted by a committee of officers it may, subject to the concurrence of the Permanent Secretary to the President, appoint one or more officers as a committee to conduct the enquiry. Every such committee shall for the purposes of that enquiry have the same powers as are conferred upon the Commission by regulations 16 and 17<sup>1</sup>.

<sup>2</sup>(2) If during the course of the enquiry grounds for the framing of additional charges are disclosed, the committee shall so inform the responsible officer who shall follow the same procedure as was adopted in framing the original charges.

### Documentary Evidence

50. An officer in respect of whom an inquiry is to be held under regulation 49<sup>1</sup> shall be entitled to receive a copy of any documentary evidence which will be relied on for the purpose of the inquiry or be allowed access to it.

### Witnesses

51. If witnesses are examined by<sup>1</sup> the committee the officer shall be given an opportunity of being present throughout and of putting questions to the witnesses on his own behalf.

### Representation of Government and Officer

52. The committee may permit the Government or the officer to be represented by an officer or in exceptional cases by a legal practitioner admitted to practice in Botswana and may at any time withdraw such permission:

Provided that where the <sup>1</sup> committee permits the Government to be represented they shall not refuse the officer leave to be similarly represented.

### Report by Committee

53. A Committee of officers appointed by the Commission under regulation 49 shall, having enquired into the matter, make a report to the Commission<sup>2</sup>. If the Commission is

(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

## **C.246**

of the opinion that the report should be amplified in any respect or that further enquiry is desirable, it may refer any matter back to the committee for amplification or further enquiry and report.

54.<sup>1</sup>

55.<sup>1</sup>

56.<sup>1</sup>

### **Disciplinary Matters Not Otherwise Provided for**

57. (1) Any case of indiscipline not covered by these regulations shall be reported to the Secretary and the Commission may issue directions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

(2) In any case which comes to the attention of the Commission, the Commission if it is of the opinion that disciplinary proceedings should be instituted against an officer may, notwithstanding the provisions of these regulations, direct his responsible officer to initiate such proceedings and the responsible officer shall give effect to such direction.<sup>2</sup>

### **Punishments**

58. (1) The following are the punishments which, subject to the provisions of any contract under which the officer may be serving, may be imposed on an officer by the Commission or by any person or persons duly authorised to act under section 111(3) of the Constitution in exercise of the power of disciplinary control over that officer referred to in section 111(1) of the Constitution <sup>2</sup>

- (a) dismissal;
- (b) reduction in rank;
- (c) reduction in salary;
- (d) stoppage of increment;
- (e) withholding of increment;
- (f) reprimand

(2) Notwithstanding the provisions of paragraph (1) but subject to the provisions of any contract under which the officer may be serving, where, on completion of proceedings instituted for the dismissal of a public officer<sup>2</sup>, the Commission is of the opinion that the officer does not deserve to be dismissed but —

- (a) in the case of an officer serving on probation, contract or temporary engagement, that the proceedings disclose grounds for terminating his appointment, as a lesser punishment than dismissal; or
- (b) in the case of an officer serving in a pensionable office that, subject to the provisions of any law for the time being in force, the proceedings disclose grounds for requiring him to retire in the public interest;

the Commission may act accordingly.<sup>2</sup>

## **C. INCREMENTS**

### **Stoppage, Withholding and Restoration of increment**

59. (1) Every officer shall, unless the award of his annual increment of salary has been previously stopped or withheld in accordance with this regulation or is subject to the crossing of an efficiency bar, receive such increment on his normal incremental date.

(1) repealed by S.I. 53 of 1967

(2) amended by S.I. 53 of 1967

## C.247

(2) If a responsible officer is of the opinion that an officer should not receive a normal increment of salary when it is due for a reason other than one justifying disciplinary proceedings he shall so inform the officer and make a report to the Secretary and the Commission shall determine whether or not such increment shall be stopped or withheld. The Commission may also determine that any increment which has been stopped in terms of regulation 58 or this regulation shall be later granted or that any increment which has been to withheld shall be later returned.<sup>1</sup>

(3) When an increment of an officer has been stopped and later granted, the date on which it is granted shall become the future incremental date of the officer, and he shall not be eligible to draw a further increment until a full year has elapsed since that date.

(4) When an increment of an officer is withheld and later restored, he will retain his normal incremental date for the award of further increments.

<sup>2</sup>(5) In this regulation, "normal incremental date" in relation to any officer means his normal incremental date as determined in accordance with General Orders or any contract under which he may be serving.

## PART VI

### SUPPLEMENTARY

#### Extension of Period of Contract

60. Where a public officer is serving on contract terms of service, his office shall be regarded for the purposes of these regulations as one falling vacant at the conclusion of the period of his engagement, notwithstanding that he is prepared to undertake a further period of service in that office. If the responsible officer considers that such officer should be engaged for a further period of service, the responsible officer shall make an appropriate recommendation on P.S.C. Form 1 in reporting the vacancy to the Commission in terms of regulation 29.

61.<sup>3</sup>

#### 'Conversion of Temporary or Contract Terms to Pensionable Terms

62. The Commission shall determine whether permanent and pensionable terms of service in a public office shall be awarded to any officer eligible for such terms who is already serving in that office under contract or upon temporary engagement.

63.<sup>3</sup>

64.<sup>3</sup>

65.<sup>3</sup>

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(1) amended by S.I. 53 of 1967

(2) inserted by S.I. 53 of 1967

(3) repealed by S.I. 53 of 1967

(4) substituted by S.I. 53 of 1967

**C.248**

**<sup>1</sup>FIRST SCHEDULE**

(regulation 2(1))

**RESPONSIBLE OFFICERS – SPECIAL CASES**

1

2

In respect of any public officer holding an office — The responsible officer shall be —

- |  |                                       |
|--|---------------------------------------|
| (a) mentioned in the Administration of Justice head of the estimates not being an officer to which section 105 of the Constitution applies | Registrar of the High Court           |
| (b) on the staff of the National Assembly  | Clerk the National Assembly           |
| (c) on the staff of the Public Service Commission  | Secretary, Public Service Commission  |
| (d) on the staff of the Attorney-General   | Attorney-General                      |
| (e) on the staff of the Director of Audit  | Director of Audit                     |
| (f) in the Botswana Police or on the staff of any officer of the Botswana Police   | Commissioner of Police                |
| (g) in the Botswana Prison Service or on the staff of the Director of Prisons  | Director of Prisons                   |
| (h) on the staff of the Establishment Secretary  | Establishment Secretary               |
| (i) referred to in the second column of this Schedule or to which section 114 of the Constitution applies                                  | Permanent Secretary to the President. |

**<sup>2</sup>SECOND SCHEDULE**

**<sup>2</sup>THIRD SCHEDULE**

**FOURTH SCHEDULE**

(regulation 47)

**PART A****FORM OF CHARGE**

To: .....  
 (name and designation)

You are hereby charged in terms of regulation 47(1) of the Public Service Commission (Supplementary Provisions) Regulations 1965 and 1967<sup>1</sup> with the misconduct set forth in the Schedule, and called upon in terms of regulation 47(3) of the above Regulations to state in writing on or before ..... any grounds on which you wish to exculpate yourself.

**SCHEDULE**

(To contain the charges)

**PART B****SPECIMEN CHARGES****Debt.**

That you have incurred debts amounting on the.....19..... to the sum of..... or more, while drawing a salary of..... a year, and that your indebtedness, which you are unable to meet, is such as to render the proper discharge of your duties as a (state position of officer, as police officer, resident magistrate, or as may be) impossible in the eyes of the public.

**Drunkenness.**

1. That you have frequently during..... been under the influence of liquor while on duty, and have come into contact with members of the public in a condition which has exposed the service of the Government to contempt.

The following are particulars —

(1) On the ..... day of ..... at.....  
 o'clock at....., etc.

(2) On the ..... day of ..... at.....  
 o'clock at....., etc.

(3) On the ..... day of ..... at.....  
 o'clock at....., etc.

(4) On the ..... day of ..... at.....  
 o'clock at....., etc.

2. That on the ..... day of ..... you indulged in alcohol to such an extent as to be incapable by noon either of coherent speech or even of standing without assistance. By so doing you incapacitated yourself for an official duty of importance, namely .....

(1) amended by S.I. 53 of 1967



## C.250

### Insubordination

1. That on the ..... 19..... at ..... in the presence of ..... you committed an act of gross insubordination towards ..... your superior officer, by (calling him a .....).

2. That on the ..... 19....., you committed an act of gross insubordination by refusing to carry out the instructions of ..... your superior officer, in regard to ..... (and by remarking that you were not under the orders of the said..... though in fact you were under his orders).

3. That you being a (title) on various occasions between.....19....., and .....19....., committed acts of insubordinate conduct to your superior officers. Particulars of such insubordination are as follows —

- (a) On the .....19....., when ordered by ..... to proceed for duty to ....., you refused to do so.
- (b) On the .....19....., when ordered by ..... to proceed to ..... check the records of a ..... transaction, you did not so proceed.
- (c) On the ..... 19....., in defiance of the express orders of ..... to the contrary, you .....
- (d) On the ..... 19....., in contravention of standing orders No. .... of ..... you failed to wear the uniform issued to you in accordance with your duty.

### Leave : Absence Without.

That for a period of ..... commencing on the ..... 19....., at ..... hours, you were absent from duty without leave.

### Negligence.

1. That you acted with gross negligence in the performance of your duties as shown in the following instances, namely —

- (1) That, etc.
- (2) That, etc.

2. That you, being a ..... in the service of the ..... Government, on or about the ..... 19...., having received certain books and documents the property of one ..... and in the course of your duties, acted with gross negligence with regard to the safe custody of such books and documents as the result of which (one : describe it) of such books was lost.

### Receiving Presents.

That on the ..... 19....., contrary to General Order No. 1105, you received a valuable present namely ....., of a value of R..... from ..... which was (state facts demonstrating that present was not an ordinary gift from a personal friend).

**THE PENSIONS (CONSOLIDATION) LAW, 1965**

(No. 17 of 1965)

(Date of commencement 14th January, 1966)

as amended by

**THE PENSIONS (CONSOLIDATION) (AMENDMENT) LAW, 1965**

(No. 23 of 1965)

(Date of commencement 14th January, 1966)

and

**THE PENSIONS (CONSOLIDATION) (AMENDMENT) LAW, 1966**

(No. 39 of 1966)

(Promulgated 23rd September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of commencement 30th September, 1966)

and

**THE PENSIONS (AMENDMENT) REGULATIONS, 1967**

(Statutory Instrument No. 3 of 1967)

(Published on 20th January, 1967)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
(NO. 10), ORDER 1967**

(Statutory Instrument No. 50 of 1967)

(Published on 29th September, 1967)

Reprinted by direction of the Attorney-General in terms of section 3 of the  
Amendments Incorporation Law, 1961.

Date of Reprint: 3rd November, 1967.

C.252

## THE PENSIONS (CONSOLIDATION) LAW, 1965

NO. 17 OF 1965

### ARRANGEMENT OF SECTIONS

#### *Section*

1. Short Title
2. Interpretation
3. Pensions Regulations
4. Amendments to First and Second Schedules
5. Pensions, etc., to be Charged on Revenues of Botswana<sup>1</sup>
6. Pensions, etc., Not of Right
7. Circumstances in Which Pensions May be Granted
- 7A<sup>2</sup>. Deferred Pensions
8. Retirement on Grounds of Public Interest
9. Compulsory Retirement
10. Maximum Pension
11. Suspension of Pension on Re-employment
12. Pensions, etc., Not to be Assignable
13. Pensions, etc., to Cease on Bankruptcy
14. Pensions, etc., may Cease on Imprisonment
15. Pensions, etc., on Accepting Certain Appointments
16. Gratuity Where Officer Dies in the Service or After Retirement
- 16A.<sup>2</sup> Gratuities to Dependants when a Non-pensionable Officer Dies in Service as a Result of Injuries Received in the Discharge of his Duties
17. Pensions to Dependants when an Officer Dies as a Result of Injuries Received or Disease Contracted in the Discharge of his Duties
18. War Service to Count for Pension Purposes
19. Contributions to Certain Pensions, etc., Payable by the Governments of Lesotho and Swaziland
20. Application
21. Repeal and Savings

### FIRST SCHEDULE

Pensionable Officers

### SECOND SCHEDULE

Regulations for the Granting of Pensions, Gratuities and Other Allowances to Officers

(1) amended by Legal Notice 84 of 1966

(2) inserted by Law 23 of 1966.

**A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE GRANTING OF PENSIONS AND OF SUPERANNUATION AND OTHER ALLOWANCES TO AND IN RESPECT OF PERSONS EMPLOYED IN THE PUBLIC SERVICE OF BOTSWANA**

*(14th January, 1966)*

ENACTED by the Legislature of Bechuanaland.

**Short Title**

1. This Law may be cited as the Pensions (Consolidation) Law, 1965.

**Interpretation**

2. (1) In this Law, unless the context otherwise requires –

“Botswana” in relation to any period of time prior to the 30th September, 1966 means the Bechuanaland Protectorate<sup>1</sup>;

“inducement allowance” means the inducement allowance referred to in clause 3(a) of the Overseas Service (Bechuanaland Protectorate) Agreement, 1962, set out in the Schedule to the Overseas Service Law, 1963;

“legal personal representative” in relation to a person who is dead, means the person in whom by law or by customary law, whichever may be applicable, the estate of that person is vested;

“Lesotho” means in relation to any period prior to the 4th October, 1966, Basutoland<sup>1</sup>;

“non-pensionable office” means an office which is not a pensionable office;

“other public service” means public service not under the Government of Botswana<sup>2</sup>;

“overseas officer” means an officer serving on terms of service which provide for the payment to him of an inducement allowance;

“pensionable emoluments” –

- (a) in respect of public service in Botswana<sup>2</sup> include –

- (i) salary;

- (ii) inducement allowance;

- (iii) personal allowances;

but do not include duty allowance, entertainment allowance or any other emoluments whatever;

Provided that for the purpose of calculating the aggregate pensionable emoluments of officers retiring from the public service subsequent to

(1) inserted by S.I. 50 of 1967

(2) amended by Legal Notice 84 of 1966

**C.254**

the first day of January, 1967, pensionable emoluments shall include an additional onesixth of salary (which shall be deemed to be the value of free quarters) in respect of service prior to that date.

- (b) in respect of other public service, means emoluments which count for pension in accordance with the law or regulations in force in such service;

“pensionable office” means —

- (a) in respect of public service in Botswana<sup>1</sup> an office for the time being included in the First Schedule; but where by virtue of any amendment to the First Schedule any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment continues therein, the office shall as respects that person continue to be a pensionable office;
- (b) in relation to other public service, an office which is for the time being a pensionable office under the law or regulations in force in respect of such service;

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but pensionable emoluments do not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“prescribed” means prescribed by this Law and any regulations made thereunder;

“public service” means —

- (a) service in a civil capacity under the Government of Botswana<sup>1</sup> or any other country or territory in the Commonwealth;
- (b) service under the East African High Commission, the East African Railways and Harbours Administration, the East African Ports and Telecommunications Administration, or the East African Common Service Organisation;
- (c) service which is pensionable —
  - (i) under the Overseas Superannuation Scheme;
  - (ii) under any Acts relating to the Superannuation of teachers in the United Kingdom;
  - (iii) under a local authority in the United Kingdom; or
  - (iv) under the National Health Service of the United Kingdom;
- (d) any other service the President may determine to be public service for the purposes of this law;<sup>2</sup>
- (e) except for the purposes of computation of a pension, gratuity or other

(1) amended by Legal Notice 84 of 1966

(2) inserted by S.I. 50 of 1967

allowance and of section 10, service in respect of which a pension may be granted under the Governors' Pensions Act, 1957 (5 and 6 Eliz.2.c.62):

- (f) service as the holder of the office of President Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the East African Court of Appeal Order in Council, 1961 (S.I. 1961 No. 2323);
- (g) service in the service of the Interim Commissioner for the West Indies;
- (h) service in the public service of the Union of South Africa in respect of any officer transferred from a pensionable office in that service to a pensionable office under the service of the Government of Bechuanaland before the 1st January, 1960;

"Public Service Commission" in relation to an officer to whom the provisions of Section 111 (2) of the Constitution are applicable, means the authority which, in terms of the Constitution, is empowered to remove such officer from office or, in cases where the provisions of section 118 of the Constitution are applicable, the appropriate Commission for the purpose of that section;

"salary" means the salary attached to a pensionable office or where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office, and includes the value of rations and fuel or any other allowance of a permanent character given as an equivalent of salary;

"the Regulations" means the Pensions Regulations, 1965, contained in the Second Schedule.

(2) For the avoidance of doubts it is hereby declared that where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is, for the purposes of this Law an office in which he has been confirmed.

(3) Where a pensionable office is abolished, and the person holding that office retires from the public service in consequence, he shall, if the office is abolished before that day, be deemed to have continued to hold it until the day immediately preceding the date of his retirement.

(4)<sup>2</sup>

### **Pensions Regulations**

3. Pensions, gratuities and other allowances may be granted by the Minister acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution' in accordance with the Regulations to or in respect of officers who have been in public service under the Government of Botswana.

(1) inserted by S.I. 50 of 1967

(2) deleted by S.I. 50 of 1967

(3) amended by S.I. 50 of 1967

**Amendments to First and Second Schedules**

4. (1) The President<sup>1</sup> may from time to time –

(a) by notice, amend the First Schedule by the addition thereto or the removal therefrom of any office;

(b) make regulations amending, adding to or revoking the Regulations.

(2) All notices and regulations made under the provisions of sub-section (1) shall be published in the *Gazette*.

(3) Whenever the President<sup>1</sup> is satisfied that it is equitable that any notice or regulation made under sub-section (1) should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that notice or regulation may be given retrospective effect for that purpose.

(4) All notices and regulations made under this section shall have the same force and effect as if they were contained in the First and Second Schedule respectively and the expression “this Law” shall, wherever it occurs in this Law be construed as including a reference to the said Schedules.

(5) Any pension, gratuity or other allowance granted under this Law shall be computed in accordance with the provisions in force, or, having been in accordance with sub-section (1), may be deemed to be in force, at the actual date of an officer's retirement or death while in the public service, as the case may be.

**Pensions, etc., to be Charged on Revenues of Botswana<sup>1</sup>**

5. There shall be charged and paid out of the revenues of Botswana<sup>1</sup> all such sums as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Law.

**Pensions, etc., Not of Right**

6. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowances; nor shall anything in this Law affect the right of the Public Service Commission<sup>1,2</sup> to dismiss any officer at any time and without compensation.

(2) Subject to the provisions of section 118 of the Constitution, where<sup>2</sup> it is established to the satisfaction of the Public Service Commission<sup>1,2</sup> that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

(3) Notwithstanding the provisions of sub-section (1) any person appointed to the public service of Botswana<sup>1</sup> as a medical officer who also exercises private practice as a physician, surgeon or accoucheur shall not be deemed to be or to have been the holder of a pensionable office unless and until he has signed an undertaking in a form approved by the President<sup>1</sup> to regard the claims of his private practice on his time as subordinate to those of his work for the Govern-

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1987

ment of Botswana<sup>1</sup> and to hold himself liable, without title to advance any claim for loss of private practice, to be removed for the purposes of public service from any one place or station in Botswana<sup>1</sup> to any other.

#### **Circumstances in Which Pensions May be Granted**

7. (1) No pension, gratuity or other allowance shall be granted under this Law to any officer except on his retirement from the public service in one of the following cases –

- (a) if he retires from public service under the Government of Botswana<sup>1</sup> –
  - (i) on or after he attains the age of fifty-five years; or subject to six months' notice of his retirement, on or after attaining the age of forty-five years;
  - (ii) on the abolition of his office;<sup>2</sup>
  - (iii) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;
  - (iv) on medical evidence to the satisfaction of the Public Service Commission<sup>1,2</sup> that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
  - (v) on compulsory retirement in any other circumstances not amounting to dismissal.
- (b) if, having been transferred to other public service –
  - (i) he retires after he attains the age at which he is permitted by the law or regulations of the public service in which he is last employed to retire on pension or gratuity or, if no age is prescribed by the said law or regulations, he retires after he attains the age of forty-five; or
  - (ii) he retires in any other circumstances in which he is permitted by the said law or regulations to retire on pension or gratuity;

Provided that this sub-paragraph shall not apply in the case of a female officer who retires for the reason that she has married or is about to marry.

(2) Notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance, a gratuity may be granted to a female officer, in accordance with the provisions of this Law, who retires from the public service for the reason that she has married or is about to marry.

(3) An officer not otherwise qualified for a pension, gratuity or other allowance under this Law, other than a pension under regulation 23 of the Regulations, may, on his retirement or removal from his employment after having

(1) amended by L.N. 84 of 1966

(3) substituted by S.I. 50 of 1967

(2) amended by S.I. 50 of 1967



## C.258

served in the public service under the Government of Botswana<sup>1</sup>, be granted a gratuity in accordance with the provisions of regulation 25 of the Regulations:

Provided that this sub-section shall not apply to any officer who is serving in the public service on pensionable terms.

### Deferred Pensions<sup>2</sup>

7A. (1) Notwithstanding the provisions of section 7 but subject to the provisions of this section, an officer to whom this section applies may on the termination of contract service be granted, in respect of his service on pensionable terms in the public service referred to in sub-section (6), a pension under regulation 4, 9, 10 or 11 of the Regulations as the case may be, as if those regulations had been applicable to him irrespective of the length of his service<sup>3</sup> and as if he had retired from the public service referred to in sub-section (6) on the day immediately preceding the transfer date.

(2) An officer to whom this section applies shall not be granted a pension under sub-section (1), unless he has completed a period of not less than three years' contract service exclusive of leave after the transfer date.

(3) An officer to whom this section applies may be granted a pension under sub-section (1), notwithstanding the provisions of sub-section (2), if the circumstances in which he fails to complete the period of contract service specified in the said sub-section (2) are circumstances in which, had he continued to serve on pensionable terms in the public service referred to in sub-section (6), he would have been eligible for a pension, gratuity or other allowance under this Law:

Provided that any entitlement to retire on pension under the provisions of any scheme of retirement benefits in respect of any officers serving on pensionable terms in public service under the Government of Botswana<sup>1</sup>, Lesotho<sup>4</sup> and Swaziland<sup>5</sup> shall not constitute, in respect of any officer to whom this section applies circumstances which make him eligible for the grant of a pension under the said sub-section (1).

(4) In respect of an officer to whom this section applies no regard shall be had to sections 6 (2), 8, 11 or 16.

(5)<sup>3</sup> If an officer to whom this section applies dies before he is eligible for the grant of a pension under sub-section (1), the Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>4</sup>,<sup>5</sup> may grant to his legal personal representative a gratuity not exceeding an amount of -

(a) the annual pensionable emoluments enjoyed by him immediately prior to the transfer date; or

(b) the maximum gratuity which might have been granted to the officer if on

(1) amended by L.N. 84 of 1966

(2) inserted by Law 23 of 1965

(3) replaced or amended by Law 37 of 1966

(4) amended by S.L. 50 of 1967

highest pensionable emoluments at any time in the course of his public service.

(5) For the purposes of this section any increase in pension payable from the funds of Botswana<sup>1</sup> in respect of a pension granted under this Law, or any comparable increase in the pension or pensions drawn in respect of other public service, whether or not such increase is governed by any instrument having the force of law shall not be taken into account.

#### **Suspension of Pension on Re-employment**

11. Subject to the provisions of section 118 of the Constitution<sup>2</sup>, if a person to whom a pension has been granted under this Law or any law repealed by this Law is appointed to an office in the public service, the payment of his pension may, if the President<sup>1</sup> thinks fit, be suspended during the period of his re-employment.

#### **Pensions, etc., not to be Assignable**

12. A pension, gratuity or other allowance granted under this Law shall not be assignable or transferable except for the purpose of satisfying –

- (a) a debt due to the Government of Botswana<sup>1</sup>, or
- (b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension, gratuity, or other allowance has been granted,

and shall not be liable to be attached, sequestrated or levied upon for or in respect of any debt or claim whatever except a debt to the Government as aforesaid.

#### **Pensions, etc., to Cease on Bankruptcy**

13. (1) Where any person to whom a pension or other allowance has been granted under this Law is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then such pension or allowance shall forthwith cease.

(2) Where any officer is adjudicated bankrupt or declared insolvent by judgment of any competent court either –

- (a) after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance, under this Law, but before the pension, gratuity, or other allowance is granted; or
- (b) before such retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement, then, in the former case, any pension or other allowance eventually granted to him shall cease as from the date of adjudication or declaration (as the case may be) and, in the latter case, the pension or other allowance may be granted, but shall not

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

## C.260

be paid to him and in either case the gratuity may be granted, but shall not be paid to him.

(3) Where a pension or other allowance ceases or is not paid, or where any gratuity is not paid, by reason of this section, it shall be lawful for the President<sup>1</sup>, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity, or other allowance, had he not become bankrupt or insolvent, to be paid to, or applied for, the maintenance or benefit of all or any to the exclusion of the other or others, of the following that is to say, such person and his wife, child, or children, or such other dependants as the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> may determine, in such proportion and manner as he thinks proper; and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of debts of the person whose pension or other allowance has ceased or has not been paid, or whose gratuity has not been paid, by reason of this section shall, for the purposes of this section, be regarded as applied for his benefit.

(5) Where a person whose pension or other allowance has ceased or has not been paid, or whose gratuity has not been paid, by reason of this section obtains his discharge from bankruptcy or insolvency, it shall be lawful for the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> to direct that the pension or other allowance shall be restored or paid and the gratuity or so much thereof (if any) as remains after deducting any payments made under sub-section (3), paid as from the date of such discharge or any later date; and the pension or other allowance shall be restored or paid and the gratuity or such remainder thereof (if any) paid, accordingly.

(6) For the purposes of this section "child" includes an illegitimate child, a step-child, an adopted child and a child for whom by any applicable customary law the officer is responsible, but shall not include a child who has attained the age of twenty-one years or, in the case of a female child, has married.

### **Pensions, etc., May Cease on Imprisonment**

14. (1) Where any person to whom a pension or other allowance has been granted under this Law is sentenced to death or to a term of imprisonment by any competent court for any offence, such pension or allowance shall, if the President<sup>1</sup> so directs, cease as from such date as he determines.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

the day following his death he had left the public service referred to in sub-section (6) in circumstances which enabled a pension to be granted to him under the said sub-section (1) and he had been granted in lieu of that pension a gratuity and a reduced pension or gratuity only in accordance with regulation 24 of the Regulations, whichever is the greater.

(6) This section applies to an officer in the public service under the Governments of Botswana<sup>1</sup>, Lesotho<sup>2</sup> or Swaziland who –

- (a) immediately before the transfer date was serving on pensionable terms in the public service under the Government of Botswana<sup>1</sup>, Lesotho<sup>2</sup> or Swaziland;
- (b) on the transfer date had not attained the age of 45 years;
- (c) is not a member of Her Majesty's Overseas Civil Service or an overseas officer;
- (d) on the transfer date was not a British protected person by reason of his connection with Botswana or in relation to an officer in service in Lesotho<sup>2</sup>, is not entitled as of right to remain permanently in Lesotho<sup>2</sup> under the provisions for the time being in force in respect of entry and residence therein, or in relation to an officer in service in Swaziland, is an officer in respect of whom Her Majesty's Commissioner in his discretion determines that the officer is not entitled as of right to remain permanently in Swaziland;
- (e) has since the transfer date been the substantive holder of an office, service in which in this section referred to as "contract service" may not during his tenure thereof be taken into account as service on pensionable terms.

(7) In this section "transfer date" means, in relation to an officer to whom the section applies, the date on which he transferred to non pensionable employment in public service under the Government of Botswana<sup>1</sup> in accordance with the Review of Emoluments of the Public Service by Thomas Monier Skinner, Esquire, C.M.G., O.B.E., as read with and modified by Establishment Circular No. 29 of 1965 and the Secretary of State's memorandum set out therein, as read with Basutoland's Establishment Skinner Report Circular No. 1 of 28th July, 1965, as read with and amended by Swaziland Establishment Circular No. 24 of 1965 and the Secretary of State's memorandum referred to therein.

#### **Retirement on Grounds of Public Interest**

8. Subject to the provisions of section 118 of the Constitution, where an officer's service is terminated in terms of section 7 (1) (a) (v) and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Law, the Minister<sup>2</sup> may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper, not exceeding in amount that for

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

## C.262

which the officer would be eligible if he retired from the public service in the circumstances described in section 7 (1) (a) (iv).

### **Compulsory and Voluntary Retirement<sup>1</sup>**

9. The Public Service Commission may require an officer to retire from the public service and an officer may retire from such service –

- (a) on or at any time after attaining the age of fifty-five years, or
- (b) at any time after attaining the age of forty-five years, subject to six months' notice in writing being given to or by the officer; or
- (c) in the case of a female officer, on marriage.

### **Maximum Pension**

10. (1) Except in cases provided for by sub-section (2), a pension granted to an officer under this Law shall not exceed two-thirds of his highest pensionable emoluments at any time while in public service under the Government of Botswana<sup>2</sup>.

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the public funds of Botswana<sup>2</sup> an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of his highest pensionable emoluments at any time in the course of his public service:

Provided<sup>3</sup>

“(2a) Where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purposes of subsections (1) and (2) to be –

- (i) where the right to commute any part of a pension in return for the payment of a gratuity has been exercised, the amount if that right had not been exercised; or
- (ii) in all other cases, four-thirds<sup>4</sup> of its actual amount.

(3) Where the limitation prescribed by sub-section (2) operates, the amount of pension to be drawn from the public funds of Botswana<sup>2</sup> shall be such amount as the Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>5</sup>, shall determine in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of sub-sections (1), (2) and (3) an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Law, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his

(1) replaced by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) proviso deleted by S.I. 50 of 1967

(4) inserted by S.I. 50 of 1967

(5) amended by S.I. 50 of 1967

(6) see G.N. 113 of 1965

(2) Where any officer is sentenced to death or to a term of imprisonment by any competent court for any offence after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance under this Law but before the pension, gratuity, or other allowance is granted, then –

- (a) the provisions of sub-section (1) shall apply as respects any pension or other allowance which may be granted to him; and
- (b) the President<sup>1</sup> may direct that any gratuity which may be granted to him shall not be paid.

(3) Where a pension or other allowance ceases or is not paid, or a gratuity is not paid, by reason of this section, it shall be lawful for the President<sup>1</sup> to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity or other allowance, but for the provisions of this section, to be paid or applied in the same manner in all respects as provided in section 13; and such moneys shall be paid or applied accordingly.

(4) Where any person whose pension or other allowance ceases or is not paid or whose gratuity is not paid, by reason of this section after conviction at any time receives a free pardon, the pension or allowance shall be restored or paid with retrospective effect, or his gratuity shall be paid, but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under sub-section (3).

(5) Where any pension or other allowance ceases or is not paid or a gratuity is not paid by reason of this section it shall be lawful for the President<sup>1</sup> at any time, and upon such terms and from such date (including any past date) as he thinks fit to restore or direct the payment of, either in whole or in part, such pension or allowance or to direct the payment of such gratuity or any part thereof, but in determining whether arrears of such pension or allowance are payable and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under sub-section (3).

<sup>2</sup>(6) In the exercise of his functions under this section the President<sup>1</sup> shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution.

#### **Pensions, etc. on Accepting Certain Appointments**

15. Where any person to whom a pension or other allowance has been granted under this Law, otherwise than under section 17, becomes either a director of any company, or proprietor or partner of any firm, the principal part of whose business is in any way directly concerned with Botswana<sup>1</sup> or an officer or servant employed in Botswana<sup>1</sup> by any such company, without the prior permission in writing of the President<sup>1</sup>, such pension or allowance shall cease if the President<sup>1</sup>

(1) amended by L.N. 84 of 1966

(2) inserted by S.I. 50 of 1967

## C.264

with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1</sup> so directs:

Provided that it shall be lawful for the President<sup>2</sup> on being satisfied that the person in respect of whose pension or other allowance any such direction has been given has ceased to be a director of such company, or proprietor or partner of any such firm, or to be employed as an officer or servant of such company in Botswana<sup>3</sup>, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he thinks fit, to such a date as he may specify; and the pension or other allowance shall be restored in accordance with any such directions.

### **Gratuity Where Officer Dies in The Service or After Retirement**

16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in public service under the Government of Botswana<sup>2</sup>, the Minister may, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1,2</sup> grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater:

Provided that for the purposes of this section an officer who has not been confirmed in his office and who dies in the circumstances mentioned in section 17 (1) shall be deemed to have been confirmed in his office.

(2) Where an officer dies after retirement from public service under the Government of Botswana<sup>2</sup> having been granted, or having become eligible for, a pension under this Law and the sums paid or payable to him at the date of his death on account of such pension including any sum awarded by way of gratuity under regulation 24 of the Regulations and any pension or gratuity paid or payable in respect of his service under any scheduled administration (as defined in regulation 8 of the Regulations) but excluding any additional pensions awarded in accordance with the provisions of regulations 23 (3) (b) of the Regulations are less in total than the amount of his annual pensionable emoluments the Minister may, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1,2</sup> grant a gratuity equal to the deficiency to his legal personal representative.

(3) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Overseas Superannuation Scheme in respect of such death or in the case of the death of an officer to whom section 16A applies<sup>3</sup>.

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) amended by Law 37 of 1966

(4) In this section –

- (a) “annual pensionable emoluments” means the emoluments taken for the purpose of computing any pension or gratuity granted to the officer under this Law or in the case of such officer as is described in sub-section (1), the emoluments which would have been taken in accordance with regulation 18 of the Regulations for the purpose of computing the pension or gratuity that would have been granted to the officer if, on the day following the date of his death, he had retired from the public service in circumstances which enabled such a grant to be made;
- (b) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation if the pensionable service which would be taken for the purpose of computing any pension or gratuity granted to him under this Law had been wholly under the Government of Botswana<sup>1</sup> and if, on the day following the date of his death he had retired from the public service in the circumstances which enabled such a grant to be made and had elected to receive a gratuity and reduced pension.

**Gratuities to Dependants when a Non-pensionable Officer Dies in Service as a Result of Injuries Received in the Discharge of his Duties**

16A. (1) Subject to the provisions of section 118 of the Constitution, where<sup>2</sup> an officer to whom this section applies dies while in public service under the Government of Botswana<sup>1</sup> after serving in that public office for not less than five years, it shall be lawful for the Minister<sup>3</sup> to grant to his legal personal representative a gratuity at the rate herein specified for each complete year of that public service, that is to say –

- (a) for each of the first five years, one week's pay;
- (b) for each of the next five years, two weeks' pay;
- (c) for each additional year, four weeks' pay;

Provided that the total amount of the gratuity shall not exceed the amount of one year's pay.

(2) Subject to the provisions of section 118 of the Constitution, where<sup>3</sup> an officer to whom this section applies dies as a result of injuries received in public service under the Government of Botswana<sup>1</sup> in the circumstances specified in section 17 (1) (a) and (b) before completing five years' public service under that Government, it shall be lawful for the Minister<sup>3</sup> to grant to his legal personal representative a gratuity not exceeding five weeks' pay.

(3) This section applies to an officer who holds –

- (a) a non-pensionable office; or

(1) amended by L.N. 84 of 1966

(2) added by Law 23 of 1965

(3) amended by S.I. 50 of 1967



C.266

- (b) a pensionable office in which he is not serving on probation and (if his appointment to that office is subject to confirmation) in which he has not been confirmed, and who is not eligible for the grant of a pension, gratuity or other allowance under this Law (other than a pension under regulation 23 (4) contained in the First Schedule) or for the grant, under his terms of service, of a gratuity or benefit under any other scheme of superannuation.

(4) For the purposes of this section –

- (a) “pay” means pay at the date of the officer’s death and includes any allowance that the Minister<sup>1</sup> may see fit to include;
- (b) an officer who, having held a non-pensionable office, holds a pensionable office in which he is serving on probation shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pay last received by him in respect of the non-pensionable office he previously held or the pensionable emoluments of the pensionable office held by him, whichever is the greater;
- (c) in calculating the period in which any officer has served in public service under the Government of Botswana<sup>2</sup> –
  - (i) subject to any general or special directions to the contrary that may be given by the Minister<sup>1</sup> only continuous service terminating at his retirement or death shall be taken into account;
  - (ii) no regard shall be had to any period of service for which he is eligible for the grant of or has been granted a pension, gratuity or other allowance under this Law (other than a pension under regulation 23 (4) contained in the First Schedule) or, as provided under his terms of service, a gratuity or benefit under any other scheme of superannuation.

**Pensions to Dependants when an Officer Dies as a Result of Injuries Received or Disease Contracted in the Discharge of his Duties**

17. (1) Where an officer while in public service under the Government of Botswana<sup>2</sup>.

- (a) is injured in the actual discharge of duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;

and dies as a direct result of such injury or disease, and such death occurs within seven years of the date when he was injured or contracted the disease,

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

the Minister<sup>2,1</sup> may grant, in addition to the grant, if any, made to his legal personal representative under section 16 –

- (i) if the deceased officer leaves a widow, a pension to her at a rate not exceeding ten sixtieths of his annual pensionable emoluments at the date of the injury or forty rand a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of twenty-one years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of twenty-one years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of twenty-one years, of double the amount prescribed in paragraph (ii);
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow and if his mother was wholly or mainly dependent on him for her support, a pension to the mother of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother and if his father was wholly or mainly dependent on him for his support, a pension to the father of an amount not exceeding the pension which might have been granted to his widow;
- (vii) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister was wholly or mainly dependent on him for support, a pension to such brother or sister until he or she attains the age of twenty-one years, of the same amount and subject to the same conditions as the pension which might have been granted under paragraph (ii), (iii) or (iv) as the case may be:

Provided that –

- (a) if in the opinion of the President<sup>1</sup> there are compassionate grounds for so doing, he may grant to any child of a deceased officer being a child who at the date of the death of the officer was wholly or mainly dependent on him

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

C.268

for support and who has attained the age of twenty-one a pension for such period as the President<sup>1</sup> may determine, of an amount not exceeding the pension which may be granted under paragraph (ii), (iii) or (iv) as the case may be;

- (b) where a deceased officer leaves a child who was incapacitated at the time of the officer's death (hereinafter in this section referred to as an "incapacitated child") the President<sup>1</sup> may, notwithstanding any pension which may have been granted under paragraph (ii), (iii) or (iv) grant an additional pension in respect of such incapacitated child after he has attained the age of twenty-one years and so long as his incapacity shall continue, of an amount not exceeding one-half the pension which might have been granted under paragraph (ii), (iii) or (iv) aforesaid, as the case may be;
- (c) where compensation in respect of the death is payable under any law in force in Botswana<sup>1</sup> which provides for the payment of workmen's compensation, or where benefits granted under this section are payable under the Overseas Superannuation Scheme or under the law in force in respect of any other public service, in respect of death, the President<sup>1</sup> may reduce or withhold any pension which may be payable under this section in such manner as he may consider reasonable;
- (d) no pension shall be payable under this sub-section at any time in respect of more than six children exclusive of incapacitated children, and where there are more than six such children, in respect of whom, but for this proviso, a pension would be payable, then the amount payable in respect of six children shall be divided equally among all such children during the period in which there are more than six children of pensionable age;
- (e) in the case of a pension granted under paragraph (v), (vi) or (vii) if it appears to the President<sup>1</sup> at any time that the mother or father, or any brother or sister, is adequately provided with other means of support, such pension shall cease as from such date as the President<sup>1</sup> may determine;
- (f) where a deceased officer has contracted polygamous marriages, and leaves more than one widow, or children born of such marriages and it is impracticable to grant a pension or pensions in the manner prescribed in any of the preceding provisions of this sub-section, the President<sup>1</sup> may –
  - (i) grant a pension, not exceeding the pension which might be granted to a widow under the said provisions to be divided between the polygamous widows in such proportions as the President<sup>1</sup> may direct; and
  - (ii) grant a pension to each such child not exceeding the pension which might have been granted to a child under the said provisions.

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(1) amended by L.N. 84 of 1966

(2) No pension shall be granted to the widow of the deceased officer if she was not married to him at the date of injury.

(3) No pension shall be payable to the widow of the deceased officer or to any other female if –

- (a) in the case of the widow, she was at the time of the death cohabiting with a person other than the deceased officer or after the death she marries or cohabits with any person;
- (b) in the case of a female who is not the widow of the deceased officer, she was at the time of the death married to or cohabiting with any person or after the death she marries or cohabits with any person;

and if, after the grant of pension to the widow or other female, she marries or cohabits with any person, the pension shall cease from the date of the marriage or the commencement of the cohabitation:

Provided that where –

- (i) a pension is withheld or ceases under this sub-section; and
- (ii) The President<sup>1</sup> is satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of the pension notwithstanding marriage, the President<sup>1</sup> may, if he thinks fit grant or regrant the pension as from that date.

(4) In the case of an officer not holding a pensionable office the expression “pensionable emoluments” in the preceding sub-section shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(5)<sup>2</sup>

(6) An officer who dies as a result of an injury received while travelling by air in pursuance of official instructions, which injury is not wholly or mainly due to or seriously aggravated by, his own serious and culpable negligence or misconduct shall be deemed for the purposes of this section to have died in the circumstances described in subsection (1)<sup>3</sup> (a):

Provided that in such a case the rates of pension prescribed in sub-section (1) (i) and (ii) shall be fifteen sixtieths and one-sixth respectively.

(7) (a) Where the President<sup>1</sup> is satisfied that damages have been or will be recovered in respect of the death for which a pension may be granted under sub-section (1), the President<sup>1</sup> may take those damages into account against such pension in such manner and to such extent that he may think fit and may withhold or reduce the pension accordingly;

(1) amended by L.N. 84 of 1966

(2) deleted by S.I. 50 of 1967

(3) amended by S.I. 50 of 1967

## C.270

- (b) for the purposes of this sub-section an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of a court by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

(8) For the purposes of this section the following words have in relation to an officer, the meanings hereby respectively assigned to them –

- (a) “brother” includes every male child of his father or his mother;
- (b) “child” includes –
  - (i) a posthumous child;
  - (ii) a step-child or illegitimate child born before the date of the injury or contracting the disease, as the case may be, and wholly or mainly dependent upon the deceased officer for support;
  - (iii) an adopted child, adopted before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid; and
  - (iv) a child for whom by any applicable customary law the officer is responsible when the officer became responsible before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid;
- (c) “incapacitated” means in relation to a child, incapable by reason of some specific bodily or mental disability of earning his own living, and a child who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this section if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so;
- (d) “father” includes his step-father and a male person by whom he has been adopted;
- (e) “mother” includes a step-mother and a female person by whom he has been adopted;
- (f) “sister” includes every female child of his father or his mother.

(9) In this section, unless the contrary intention appears, reference to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him contracting a disease such as is mentioned in sub-section (1) (b) of this section and to the date on which such disease is contracted.

<sup>1</sup>(10) In the exercise of their functions under this section the Minister and President shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution.

(1) inserted by S.I. 50 of 1967

### War Service to Count for Pension Purposes

18. Where an officer shall have served with Her Majesty's Forces in time of war, prior to the 30th September, 1966<sup>(1)</sup> with the approval of the authority in whose service he was last employed before so serving or of the Secretary of State, the following provisions shall have effect –

- (a) during the period of such service in Her Majesty's Forces including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of this Law, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to military service;
- (b) during any period between his leaving the public service for the purpose of serving in Her Majesty's Forces and the date of his commencing military service, he shall, for the purposes of this Law, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed:

Provided that –

- (i) this section shall not apply when either period mentioned in paragraph (b) exceeds three months, or such longer period as the President<sup>(2)</sup> may in any special case determine; or if the officer failed, after serving with Her Majesty's Forces, to re-enter the public service otherwise than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined aforesaid, after the termination of his military service;
- (ii) if during any period mentioned in paragraph (a) the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (a) shall, as respects that period, have effect as if the words "leave without salary not on grounds of public policy" were substituted for the words "leave on full salary";
- (iii) if during his military service the officer shall have been injured or killed, he shall not, for the purposes of this Law, be deemed to have been injured or killed in the discharge of his duty:

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

## **C.272**

- (iv) the provisions of this section which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;
- (v) save wherein any particular case the President<sup>1</sup> otherwise directs, this section shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

### **Contributions to Certain Pensions, etc., Payable by the Government of Lesotho<sup>2</sup> and Swaziland**

19. When a pension, gratuity or other allowance is payable to or in respect of any officer from the funds of Lesotho<sup>2</sup> or Swaziland in respect of service remunerated by a salary or emoluments towards which contributions have been paid out of the funds of Botswana contributions towards the amount of such pension, gratuity, or other allowance may be paid from the funds of Botswana to the funds of Lesotho<sup>2</sup> or Swaziland, as the case may be, which shall bear the same proportion to such pension, gratuity or other allowance as the annual contribution towards the said salary or emoluments at the date of the officer's retirement or death bears to the total annual amount of the officer's salary or emoluments at that date.

### **Application**

20. The provisions of this Law shall apply –

- (a) to every officer in the public service of the Government of Botswana on the date of commencement of this Law;
- (b) to every officer appointed to the public service of the Government of Botswana on or after the date of commencement of this Law;
- (c) to every officer transferred to the public service of the Government of Botswana after the date of commencement of this Law in respect of service on or after that date;
- (d) to every officer transferred from the public service of the Government of Botswana to other public service before the date of commencement of this Law and still in other public service on that date;

Provided that when an officer to whom the Pensions Proclamation (Cap. 59) repealed by section 21 left the public service before the commencement of this Law and has been re-employed in the public service after such commencement, he shall for the purposes of this paragraph be deemed to be in the public service at the commencement of this Law.

### **Repeal and Savings**

21. (1) The Pensions Proclamation (Cap. 59) is hereby repealed.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

(2) Nothing in this Law shall either diminish the rights acquired by any person under any Proclamation repealed by this Law or affect the pensions granted to any persons who have retired before the coming into operation of this Law.

## FIRST SCHEDULE

(section 1)

### PENSIONABLE OFFICERS

#### Administration of Justice :

Registrar and Master.  
Resident Magistrate.

#### Agriculture :

Director of Agriculture.  
Deputy Director of Agriculture.  
Senior Agricultural Officer.  
Agricultural Officer.  
Dairy Officer.  
Senior Agricultural and Livestock Officer.  
Agricultural and Livestock Officer.  
Senior Agricultural Supervisor.  
Agricultural Supervisor.  
Grain Control Clerk.  
Agricultural Demonstrator.

#### Attorney-General :

Attorney-General.  
Deputy Attorney-General.  
State Counsel

#### Audit :

Director of Audit.  
Senior Auditor.  
Auditor.  
Senior Examiner of Accounts.  
Examiner of Accounts.

#### Audit — Local Government :

Auditor.  
Examiner of Accounts.

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(1) amended by L.N. 84 of 1966



**C.274**

**Community Development :**

Community Development Officer.  
Assistant Community Development Officer.

**District Administration :**

Senior District Officer.  
District Officer.  
District Assistant.  
Foreman, Peleng Village.  
Messenger/Interpreter.  
Switchboard Operator.

**Education :**

Director of Education.  
Deputy Director of Education.  
Senior Education Officer.  
Education Officer.  
Education Officer (Female).  
Principal, Lobatsi Teacher Training College.  
Inspector of Schools.  
Secretary of the Botswana Teaching Service.  
Vice-Principal.  
Graduate Teacher.  
Headmaster (Primary School).  
Teacher Grade 1.  
Teacher Grade II.  
Teacher Grade I (Female).  
Matron.  
Bursar, Lobatsi Teacher Training College.  
Supervisor of Schools.  
Boarding Master.

**Game :**

Game Officer.  
Game Ranger.  
Assistant Game Ranger.  
Senior Game Scout.

**Geological, Hydrological and Mineral Survey :**

Director of Geological Services.  
Deputy Director of Geological Services.  
Geologist.  
Chemist.

Geological Draughtsman.  
Scientific Assistant.  
Senior Driller.  
Drill Foreman.  
Laboratory Technician.  
Prospector.  
Geological Draughting Assistant.  
Tracer.  
Laboratory Assistant.  
Drill Superintendent.  
Assistant Drill Superintendent.  
Driller.  
Artisan.

**Judiciary :**

Chief Justice.  
Puisne Judge.

**Legislative Assembly :**

Clerk of Assembly.  
Assistant Clerk.  
Cook/Caretaker.

**Medical :**

Director of Medical Services.  
Deputy Director of Medical Services.  
Medical Officer of Health.  
Medical Officer.  
Health Inspector.  
Field Officer.  
Senior Matron.  
Matron.  
Sister Tutor.  
Sister-in-charge.  
Nursing Sister.  
Senior Staff Nurse.  
Senior Medical Aide.  
Medical Aide.  
Sanitary Inspector.  
Staff Nurse.  
Male Mental Attendant.

C.276

**Ministries and Departments :**

Permanent Secretary.  
Assistant Secretary.  
Chief Executive Officer.  
Senior Executive Officer.  
Higher Executive Officer.  
Executive Officer.  
Assistant Executive Officer.  
Personal Assistant.  
Stenographer.  
Accountant.  
Administrative Assistant.  
Accounts Officer.  
Accounts Assistant.  
Storekeeper.  
Clerk.  
Registry Clerk.  
Motor Driver.  
Head Labourer.  
Senior Storekeeper.  
Works Staff, Grade I.  
Clerk/Interpreter.  
Typist.  
Mechanic.  
Assistant Storekeeper.  
Storeman.

**Ministry of Agriculture:**

Registrar of Co-operative Societies.  
Senior Co-operatives Officer.  
Co-operatives Officer.  
Assistant Co-operatives Officer.

**Ministry of Finance :**

Financial Secretary and *ex officio* Minister of Finance.  
Registry Clerk/Typist.  
Assistant Stock Verifier.  
Accountant-General and Collector of Income Tax.  
Deputy Accountant-General.  
Accounts Assistant (Cashier).  
Income Tax Officer and Assistant Collector of Income Tax.  
Income Tax Officer.  
Assistant Income Tax Officer.

**Ministry of Home Affairs :**

Senior Permanent Secretary.  
Establishment Officer.  
Assistant Establishment Officer.  
Office Superintendent.  
Clerk/Office Keeper.  
Clerk/Messenger.  
Chief Information Officer.  
Information Officer.  
Assistant Information Officer.  
Information Assistant.  
Assistant Immigration Officer.  
Assistant Registrar-General.  
Examiner of Deeds.

**Ministry of Education, Health and Labour**

Commissioner of Labour.  
Assistant Labour Officer.

**Police :**

Commissioner of Police.  
Deputy Commissioner of Police.  
Senior Superintendent of Police.  
Superintendent of Police.  
Deputy Superintendent of Police.  
Assistant Superintendent of Police.  
Senior Inspector of Police.  
Inspector of Police.  
Paymaster (Inspector of Police).  
Sub-Inspector of Police.  
Sergeant.  
Corporal.  
Trooper.  
Constable.  
Force Wireless Officer (Senior Inspector).  
Assistant Force Wireless Officer.  
Radio Technician.  
(Inspector) Radio Technician.

**Posts and Telegraphs :**

Director of Posts and Telegraphs.  
Deputy Director of Posts and Telegraphs.  
Engineer.

**C.278**

Supervising Technician.  
Senior Postal Officer.  
Technician.  
Postal Officer.  
Telephonist Grade I and II.  
Postal Assistant.

**Prisons :**

Director of Prisons.  
Chief Prison Officer.  
Prison Officer.  
Warder Instructor.  
Sergeant Warder.  
Corporal Warder.  
Warder.

**Public Service Commission :**

Secretary, Public Service Commission.

**Public Works Department :**

Director of Public Works.  
Deputy Director of Public Works.  
Divisional Engineer.  
Clerk/Storeman.  
Personnel Officer.  
Senior Architect.  
Quantity Surveyor's Assistant.  
Works Staff Grade I and II.  
Artisan Leading Hand.  
Artisan.  
Tracer.  
Senior Engineer.  
Engineer (Mechanical).  
Inspector of Works.  
Plant Operator.  
Power House Attendant.  
Senior Land Surveyor and Surveyor General.  
Land Surveyor.  
Survey Assistant.  
Senior Draughtsman.  
Senior Roads Engineer.  
Engineer (Civil)  
Engineering Assistant.

Technical Officer.  
Technical Assistant.  
Roads Section Officer.  
Road Supervisor.  
Senior Water Engineer.  
Draughtsman, Engineering.  
Water Supply Operator.

**Tsetse Fly Control :**

Chief Tsetse Officer.  
Field Officer.  
Mechanic.  
Survey Assistant.  
Stores Clerk.  
Head Fly Scout.

**Veterinary :**

Director of Veterinary Services.  
Deputy Director of Veterinary Services.  
Senior Veterinary Officer.  
Veterinary Officer.  
Senior Laboratory Technician.  
Senior Livestock Officer.  
Quota Control Officer.  
Teacher Graduate.  
Livestock Officer.  
Principal Detention Officer.  
Senior Detention/Grading Officer.  
Senior Meat Inspector.  
Cannery Superintendent.  
Meat Inspector.  
Hide Improvement Officer.  
Statistical Assistant.  
Stock Inspector.  
Works Foreman, Grade II.  
Fence Foreman.  
Veterinary Assistant.  
Hide Demonstrator.  
Farm Foreman.  
Cattle Guard.  
Abattoir Assistant.  
Cook.

C.280

SECOND SCHEDULE  
**THE PENSIONS REGULATIONS 1965**  
**ARRANGEMENT OF REGULATIONS**

**PART I**

PRELIMINARY

*Regulation.*

1. Short Title.
2. Interpretation.

**PART II**

OFFICERS WITHOUT OTHER PUBLIC SERVICE

3. Application of Part II.
4. Pension to Whom and at What Rates to be Granted.
5. Gratuities Where Length of Service Does not Qualify for Pension.
6. Marriage Gratuities.

**PART III**

TRANSFERRED OFFICERS

*Regulation.*

7. Application of Part III.
8. Interpretation.
9. Pension for Service Wholly Within the Group.
10. Pension Where Other Service is not Within the Group.
11. Pension Where Other Service Both Within and not Within the Group.
12. Gratuities Where Length of Service Does Not Qualify for Pension.
13. Marriage Gratuities.

## **PART IV**

### **GENERAL**

14. General Rules as to Qualifying Service and Pensionable Service.
15. Continuity of Service.
16. Leave Without Salary.
17. Service in Her Majesty's Forces.
18. Emoluments to be Taken For Computation of Pensions, Etc.
19. Non-pensionable Service.
20. Acting Service.
21. Service Under Age of 20 or on Probation or Agreement.

## **PART V**

### **SUPPLEMENTARY**

22. Abolition of Office and Reorganisation.
23. Officers Injured or Contracting Diseases in the Discharge of Their Duties.
24. Gratuity and Reduced Pension.
25. Gratuity Awarded by the President<sup>1</sup>.

## **SCHEDULE TO REGULATIONS**

### **PART I**

#### **PRELIMINARY**

##### **Short Title**

1. These regulations may be cited as the Pensions Regulations, 1965.

##### **Interpretation.**

2. In these regulations, unless the context otherwise requires —  
“pensionable service” means service which may be taken into account in computing pension under these regulations.  
“qualifying service” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity, or other allowance;  
“the Law” means the Pensions (Consolidation) Law, 1965.

<sup>(1)</sup> Amended by L.N. 84/1966



## PART II

### OFFICERS WITHOUT OTHER PUBLIC SERVICE

#### Application of Part II.

3. Save when the President<sup>1</sup> in any special case otherwise directs, this Part of these regulations shall not apply in the case of any officer transferred to or from the public service under the Government of Botswana<sup>1</sup> from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity for which the officer would have been eligible, if the service of the officer had been wholly service in public service under the Government of Botswana<sup>1</sup>.

#### Pension to Whom and at What Rates to be Granted.

4. Subject to the provisions of the Law and of these regulations, every public officer holding a pensionable office under the Government of Botswana<sup>1</sup> who has been in public service under the Government of Botswana<sup>1</sup> for ten years or more may be granted on his retirement a pension at the rate of one six-hundredth of his pensionable emoluments in respect of each completed month of pensionable service.

#### Gratuities Where Length of Service Does Not Qualify for Pension.

5. Every officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to the officer under regulation 4.

#### Marriage Gratuities.

6. Where a female officer having been in public service under the Government of Botswana<sup>2</sup> for not less than five years and having been confirmed in a pensionable office, retires or is required to retire for the reason that she is about to marry, or has married, and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part, she may be granted, on production within six months after her retirement, or such longer period as the President<sup>1</sup> may in any case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding —

- (a) one year's annual pensionable emoluments; or
- (b) five times the annual amount of the pension which might have been granted to her under regulation 4 had there been no qualifying period and had that regulation been applicable to her, whichever amount shall be the less.

(1) Amended by L.N. 84/1966

### PART III

#### TRANSFERRED OFFICERS

##### Application of Part III.

7. This Part shall apply only in the case of an officer transferred to or from public service under the Government of Botswana<sup>1</sup> from or to other public service.

##### Interpretation.

8. (1) In this Part and Part IV —

“scheduled administration” means —

- (a) the Government of any territory, or any authority, mentioned in the Schedule to these regulations;
- (b) the Government of Ceylon, in respect of any officer appointed to service under that Government before the 4th day of February, 1948;
- (c) the Government of Palestine, in respect of any officer appointed to service under that Government before the 15th day of May, 1948;
- (d) the Government of the Somali Republic, in respect of any officer appointed to service under the former Government of the Somaliland Protectorate before the 26th day of June, 1960;
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August, 1950;
- (f) the East African Common Services Organisation in respect of any person deemed to have been appointed or appointed to service as President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa by or under the Eastern Africa Court of Appeal Order in Council, 1961; (S.I. 1961 No. 2323);
- (g) the Interim Commissioner for the West Indies in respect of any person deemed to have been appointed or appointed to service as Judge, Registrar, Officer or servant of the British Caribbean Court or Caribbean Court of Appeal by or under the British Caribbean Court of Appeal Order in Council, 1962; (S.I. 1962 No. 1086);

“service in the group” means service in the public service under the Government of Botswana<sup>1</sup> and under a scheduled administration or scheduled administrations.

(2) For the purpose of these regulations —

- (a) any officer in public service under the Government of the Federation of Rhodesia and Nyasaland immediately before the 1st January, 1964, who was

(1) amended by L.N. 84 of 1966

immediately before that date employed on secondment to service under the Government of Southern Rhodesia or Northern Rhodesia or Nyasaland, or was as from that date so employed, shall be deemed to continue to serve in public service under the Government of the Federation of Rhodesia and Nyasaland until his employment on secondment is terminated;

- (b) any pension awarded on or after the 1st January, 1964 in respect of service under the Government of the Federation of Rhodesia and Nyasaland shall be deemed to have been granted by that Government notwithstanding the provisions of the Federation of Rhodesia and Nyasaland (Disolution) Order in Council 1963 (S.I. 1963 No. 2085).

(3) Where an officer to whom this Part applies, is, on his retirement from the public service, not granted a pension or gratuity in respect of his employment in the service in which he was last employed, solely by reason of the fact that he has not held office or pensionable office therein for a specified period, he shall nevertheless be deemed for the purposes of this Part to have retired in circumstances in which he is permitted by the law in force in respect of the service in which he is last employed to retire on pension or gratuity.

#### **Pension for Service wholly within the Group.**

9. (1) Subject to the provisions of the Law and of these regulations where the other public service of an officer to whom this Part applies has been wholly under one or more scheduled administrations and his aggregate service would have qualified him had it been wholly service in public service under the Government of Botswana<sup>1</sup> for a pension under this Law, he may, on his retirement from the public service, be granted in respect of his service in public service under the Government of Botswana<sup>1</sup> a pension of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in public service under the Government of Botswana<sup>1</sup> as the aggregate amounts of his pensionable emoluments during service in public service under the Government of Botswana<sup>1</sup> shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the group.

(2) In determining for the purposes of this regulation the pension for which an officer would have been eligible if his service had been wholly service in public service under the Government of Botswana —

- (a) in the application of regulation 18, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of his retirement from the public service or during the three years or lesser period preceding that date, as the case may be, except that where the officer is not serving under a scheduled administration at that date, the date upon which he was last transferred from the public service under a scheduled administration shall be deemed to be the date of his retirement for the purposes of this sub-paragraph;

(1) amended by L.N. 84 of 1966

- (b) no regard shall be had to an additional pension under regulation 22 or 23 ;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of the highest pensionable emoluments enjoyed by him at any time during his public service ;
- (d) no period or public service under a scheduled administration or under the Government of Botswana<sup>1</sup> in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be, shall be taken into account.

(3) For the purposes of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group subsequent to the attainment of the age of twenty years ;

Provided that —

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under a scheduled administration or under the Government of Botswana<sup>1</sup> in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be ;
- (b) where service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officer's aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

(4) For the purposes of this regulation where an officer retires from the public service under the Government of Lesotho<sup>2</sup> or Swaziland under the provisions of a scheme of retirement, whether contained in a law or not, which is applicable to that public service and in circumstances in which he is permitted to retire therefrom on pension, he may, notwithstanding that his total public service is less than ten years, be granted, in lieu of any gratuity under regulation 12, a pension under this regulation as if the words "for ten years or more" were omitted from regulation 4.

#### **Pension Where Other Service is Not Within the Group.**

10. (1) Subject to the provisions of the Law and of these regulations, where the other public service of an officer to whom this Part of these regulations applies has not included service under any of the scheduled administrations, and his aggregate service would have qualified him, had it been wholly service in public service under the Government of Botswana<sup>1</sup> for a pension under these regulations, he may on his retirement from public service, be granted in respect of his service in public service under the Government of Botswana<sup>1</sup>, a pension of an amount equal to the pension for which he would have been eligible under

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

regulation 4, if there had been no qualifying period and if he had no other public service.

(2) Where the officer is not in public service under the Government of Botswana<sup>1</sup> at the time of such retirement, his pensionable emoluments for the purpose of paragraph (1) shall be those which would have been taken for the purposes of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from public service under the Government of Botswana<sup>1</sup>.

(3) Any officer who, prior to the 1st January, 1960, has been transferred from a pensionable office in the public service of the Union of South Africa or in the public service of Southern Rhodesia, to a pensionable office under the public service of the Government of Botswana<sup>1</sup>, and has served not less than ten years in all in a pensionable office, shall on retirement receive in respect of the period of such other public service and of his service in a pensionable office in Botswana such pension as would have been payable to him if the whole of such service had been in Botswana<sup>1</sup> notwithstanding that he may not have completed ten years' actual service in Botswana<sup>1</sup>:

Provided, however, that any pension, or the aggregate of any reduced pension and of any portion of the unreduced pension used for the purpose of computing a gratuity, which may be payable by the Government of South Africa or the Government of Southern Rhodesia, as the case may be, towards the pension of any such officer shall be deducted from the unreduced pension payable to such officer; and any gratuity payable to such officer under the provisions of regulation 24 shall in no case exceed a sum equal to twelve and one half times one-fourth of the pension payable to such officer out of Botswana<sup>1</sup> funds.

**Pension Where Other Service Both Within and not Within the Group.**

11. Where a part only of the other public service of an officer to whom this Part applies has been under one or more of the scheduled administrations, the provisions of regulation 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

**Gratuities Where Length of Service Does Not Qualify for Pension.**

12. Subject to the provisions of the Law and of these regulations, where an officer to whom this Part applies retires from the public service but has not been in the public service for ten years, he may be granted in respect of his service in the public service under the Government of Botswana<sup>1</sup>; a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 9, 10 or 11, as the case may be.

(1) amended by L.N. 84 of 1966

**Marriage Gratuities.**

13. Where a female officer to whom this Part applies retires or is required to retire for the reason that she is about to marry or has married, and —

- (i) would have been eligible for a gratuity under regulation 6 if her public service had been wholly under the Government of Botswana'; and
- (ii) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part,

she may be granted in respect of her public service under the Government of Botswana' a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible under regulation 9, 10 or 11 had there been no qualifying period and had regulation 9, 10 or 11, as the case may be, been applicable to her:

Provided that for the purpose of computing the amount of such a gratuity —

- (a) in relation to regulation 9 or 11, regulation 9 (2) (c) shall have effect as if the reference to two-thirds of her highest pensionable emoluments were a reference to one-fifth of her annual pensionable emoluments;
- (b) in relation to a pension under regulation 9, 10 or 11, the annual amount of that pension shall not exceed one-fifth of her annual pensionable emoluments.

**PART IV****GENERAL****General Rules as to Qualifying Service and Pensionable Service.**

14. (1) Subject to the provisions of these regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service without deduction of any period during which he has been absent on leave.

(2) No period which is not qualifying service by virtue of paragraph (1) shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

**Continuity of Service.**

15. (1) Except as otherwise provided in these regulations, only continuous public service shall be taken into account as qualifying service or as pensionable service:

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(1) amended by L.N. 84 of 1966

C.288

Provided that any break in service caused by temporary suspension of employment in the public service not arising from misconduct or voluntary resignation shall be disregarded for the purposes of this paragraph:

Provided also that any person holding office in public service under the Government of Palestine immediately before the fifteenth day of May, 1948, shall be deemed to have continued in his office until either he was appointed to the service of a scheduled administration<sup>1</sup> elsewhere, or if he was not so appointed, he retired or was removed from office.

(2)<sup>2</sup> An officer—

- (a) whose pension has been suspended under section 11 of the Law or under a corresponding provision in any law relating to the grant of pensions in respect of public service; or
- (b) who has retired from the public service without pension on account of ill health, abolition of office or reorganisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
- <sup>3</sup>(c) who has left pensionable service —
  - (i) under any Acts relating to the Superannuation of teachers in the United Kingdom, or
  - (ii) under a local authority in the United Kingdom; or
  - (iii) under the National Health Service of the United Kingdom;

with a view to entering public service, not being pensionable service as aforesaid and has, not later than three months, or such extended period as the President may in any particular case approve, after leaving such pensionable service received any salary in respect of employment in public service not so pensionable may if the President, acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution, thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension being in lieu of —

(A) any pension previously granted to him from the funds of Botswana;  
and

(B) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation, but additional to any gratuity so granted which is not required to be refunded as aforesaid.

**Leave Without Salary.**

16. No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the President<sup>1</sup>.

**Service in Her Majesty's Forces.**

17. Where an officer, during some period of his service has been on the active list of the Royal Navy, the Army or the Royal Air Force and pension contributions have been paid in respect of that period from the funds of the Bechuanaland Protectorate<sup>1,2</sup> or of any scheduled administration and have not been refunded, such period shall not be taken into account as pensionable service.

**Emoluments to be Taken For Computation of Pensions Etc.**

18. (1) For the purpose of computing the amount the pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement —

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one-third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken;

Provided that —

- (i) if such one-third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years these annual pensionable emoluments shall be taken; and
- (ii) if such one-third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion the President<sup>1</sup> would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(1) amended by L.N. 24 of 1966

(2) amended by S.N. 25 of 1967



## C.290

(2) For the purpose of determining under paragraph (1) the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed —

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period of three years.

<sup>1</sup> Provided that if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments of that office have not been considered in a general revision of pensionable emoluments, then for the purposes of this Regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the President in his discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of the said revision.

(3) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of less than three years' pensionable service before his retirement —

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period.

(4) Notwithstanding any other provision of this regulation the pensionable emoluments taken for the purposes of computing the pension or gratuity of any officer shall in no circumstances exceed the full annual pensionable emoluments enjoyed by the officer at the date of retirement in respect of the office then held by him.

### **Non-pensionable Service.**

19. Only service in a pensionable office (not being service in respect of which the officer is entitled to a gratuity in lieu of pension or to benefit under any other scheme of superannuation) shall be taken into account as pensionable service:

Provided that —

- (a) where a period of service in a civil capacity otherwise than in a pensionable office (not being service in respect of which the officer is entitled to a

(1) added by S.I. 3 of 1967

gratuity in lieu of pension) is immediately followed by service in a pensionable office and the officer is confirmed therein, the whole or any part of such period may with the approval of the President<sup>1</sup> be so taken into account;

- (b) any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining for the purposes of the preceding provisions of this regulation whether one period of service immediately follows another period of service;
- (c) (i) where an officer has been transferred from a pensionable office in which he had been confirmed to an office which is not pensionable and subsequently retires either from a pensionable office or an office which is not pensionable his service in the office which is not pensionable may, with the approval of the President<sup>1</sup>, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer and at the pensionable emoluments which were payable to him at the date of transfer;
- (ii) where a period of non-pensionable service is taken into account under this regulation, the officer shall, during that period, be deemed for the purposes of regulations 6, 22 and 23 to be holding a pensionable office, and where that period is taken into account under paragraph (c) (i) to have been confirmed therein.

#### **Acting Service.**

20. Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject if the service is a non-pensionable to the provisions of the preceding regulation) if the period of such acting service —

- (a) is not taken into account as part of his pensionable service in other public service, and
- (b) is immediately preceded or followed by service in a substantive capacity in a pensionable office in the public service under the same government or authority, and not otherwise.

#### **Service Under Age of 20 or on Probation or Agreement.**

21. Save as otherwise provided in these regulations, there shall not be taken into account as pensionable service —

- (a) any period of service while the officer was under the age of twenty years, or
- (b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service:

<sup>(1)</sup> amended by L.N. 84 of 1966

Provided that any break of service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

## PART V

### SUPPLEMENTARY

#### **Abolition of Office and Reorganisation.**

22. If an officer holding a pensionable office retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the reorganisation of the department to which he belongs, by which greater efficiency or economy may be effected, he may —

- (a) if he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11 as the case may be, as if the words “for ten years or more” were omitted from regulation 4;
- (b) if he retires from the public service under the Government of Botswana<sup>1</sup>, be granted an additional pension at the annual rate of one one-hundred-and-eightieth of his pensionable emoluments for each complete year of his pensionable service:

Provided that —

- (i) the addition shall not exceed thirty one-hundred-and-eightieths; and
- (ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age of fifty-five years, having received all increments for which he would have been eligible by that date.

#### **Officers Injured or Contracting Diseases in the Discharge of Their Duties.**

23. (1) This regulation shall apply to an officer who —

- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.

(2) In this regulation unless the contrary intention appears, references to an officer being injured and to the date on which an injury is sustained shall

(1) amended by L.N. 84 of 1966

respectively be construed as including references to him contracting such a disease as is mentioned in paragraph (b) of this regulation and to the date on which such disease is contracted.

(3) Where an officer to whom this regulation applies is holding a pensionable office in which he has been confirmed he may —

- (a) if his retirement is necessitated or materially accelerated by his injury and he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulations 4, 9, 10 or 11, as the case may be, as if the words “for ten years or more” were omitted from regulation 4;
- (b) if he was injured while in public service under the Government of Botswana<sup>1</sup> be granted on retirement an additional pension, at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table: —

When his capacity to contribute to his own support is: —

Slightly impaired.....	— five sixtieths;
Impaired.....	— ten sixtieths;
Materially Impaired.....	— fifteen sixtieths;
Totally destroyed.....	— twenty sixtieths:

Provided that the amount of the additional pension may be reduced to such an extent as the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> shall think reasonable where the injury is not the cause or the sole cause of retirement.

(4) (a) An officer to whom this regulation applies who is injured while in public service under the Government of Botswana<sup>1</sup> who holds a non-pensionable office or who holds a pensionable office in which he has not been confirmed, may be granted on retirement, a pension of the same amount as the additional pension which may be granted to him under paragraph (3) if his office were a pensionable office and he had been confirmed therein.

(b) The provisions of regulation 24 shall not apply to a pension granted under this paragraph.

(5) (a) If, for the purpose of assessing the amount of any additional pension or pension to be granted under paragraph (3) (b) to any officer to whom this regulation applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, he may be granted a provisional award to have effect until such time as his degree of permanent impairment can be determined.

(b) The provisions of regulation 24 shall not apply to an award made under this paragraph.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

## C.294

(6)

(7) An officer who is injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purpose of this regulation to have been injured in the circumstances described in paragraph (1):

Provided that in such a case the rates of pension prescribed in paragraph (3) (b) of this regulation shall be seven-and-a-half sixtieths, fifteen sixtieths, twenty-two-and-a-half sixtieths and thirteenth sixtieths respectively.

(8) Where compensation in consequence of the injury is payable under any law in force in Botswana<sup>2</sup> which provides for the payment of workmen's compensation, or where benefits corresponding to an additional pension or pension under paragraph (3) or paragraph (4) are payable, under the Overseas Superannuation Scheme or under the law in force in respect of any other public service, in consequence of the injury, the President<sup>2</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> may reduce or withhold any additional pension or pension payable under either paragraph (3) or paragraph (4) aforesaid in such manner as he may consider reasonable.

(9) (a) Where the President<sup>2</sup> is satisfied that damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under paragraph (3) (b) or under paragraph (4), the President<sup>2</sup> may with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> take these damages into account against such additional pension or pension in such manner and to such extent as he may think fit and may withhold or reduce the additional pension or pension accordingly.

(b) For the purpose of this paragraph an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

### Gratuity and Reduced Pension

24. (1) Any officer to whom a pension is granted under the Law may at his option exercisable as in this regulation provided, be paid in lieu of such pension a pension at the rate of not less than three-fourths of such pension together with a gratuity equal to twelve and a half times the amount by which such pension is reduced:

Provided that in the application of this regulation to cases where the limitation prescribed by sub-section (2) of section 10 of the Law operates, the words "such pension" shall mean the amount of pension which the officer might have drawn from the funds of Botswana<sup>2</sup> if he had not exercised his option under this regulation.

(1) deleted by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) amended by S.I. 50 of 1967

<sup>1</sup>Provided further that where a pension is granted in terms of section 7 A (1) of the Law and the amount of the pension is four hundred rand or less, an officer to whom that section applies may at his option be paid in lieu of such pension a gratuity equal to twelve and a half times the amount of such pension.

(2) An option exercisable in accordance with this regulation —

- (a) shall be exercisable, and if exercised, may be revoked on or before the date of the officer's retirement or with the permission of the President<sup>1</sup> at any time between that date and the date of the final award of the pension granted to him under the Law;
- (b) shall be exercised or revoked by notice in writing addressed to the Minister;<sup>2, 3</sup>
- (c) shall be deemed to have been exercised or revoked on the date on which such notice is received.

(3) If an officer who has not exercised an option in accordance with this regulation dies after he has retired but before a pension has been granted to him under the Law the President<sup>2</sup> may with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> grant to his legal personal representative a gratuity and a reduced pension as provided in paragraph (1) as if the officer had exercised the option before his death.

#### **\*Gratuities for Officers who Have Served in Non-pensionable Offices**

25. (1) Subject to the provisions of section 118 of the Constitution, where<sup>3</sup> an officer to whom this regulation applies retires or resigns from public service under the Government of Botswana<sup>1</sup> after serving in that public service for not less than five years, he may be granted by the President a gratuity at the rate herein specified for each complete year of service, that is to say —

- (a) for each of the first five years, one week's pay;
- (b) for each of the next five years, two week's pay;
- (c) for each additional year, four week's pay;

Provided that the total amount of the gratuity shall not exceed the amount of one year's pay;

(2) This regulation applies to an officer who holds —

- (a) a non-pensionable office;
- (b) a pensionable office in which he is not serving on probation and (if his appointment to that office is subject to confirmation) in which he has not been confirmed and who is not eligible for the grant of a pension, gratuity or other allowance under the Law (other than a pension under regulation 23 (4) or for the grant, under the terms of service, of a gratuity or a benefit under any other scheme of superannuation.

(1) added by Law 23 of 1965.

(3) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(4) replaced by Law 23 of 1965

C.296

(3) For the purpose of this regulation —

- (a) "pay" means pay at the date of the officer's retirement or resignation and includes any allowance the President<sup>1</sup> may think fit to include;
- (b) an officer who having held a non-pensionable office holds a pensionable office in which he is serving on probation shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pay last received by him in respect of the non-pensionable office he previously held or the pensionable emoluments of the pensionable office held by him, whichever is the greater;
- (c) in calculating the period in which any officer has served in public service under the Government of Botswana<sup>1</sup> —
  - (i) subject to any general or special directions that may be given by the President<sup>1</sup>, only continuous service terminating at his retirement or resignation shall be taken into account;
  - (ii) no regard shall be had to any period of service for which he is eligible for the grant of or has been granted a pension, gratuity or other allowance under the Law (other than a pension under regulation 23 (4) or, as provided under his terms of service, a gratuity or a benefit under any other scheme of superannuation .

#### SCHEDULE TO REGULATIONS

(Regulation 8 (1))

#### LIST OF SCHEDULED ADMINISTRATIONS AND AUTHORITIES

Aden  
Antigua  
Bahamas  
Barbados  
Basutoland  
Bermuda  
British Antarctic Territory  
British Honduras  
British Solomon Islands Protectorate  
Brunei  
Cayman Islands  
Crown Agents for Overseas Governments and Administrations  
Dominica  
East African Common Services Organisation  
East African High Commission  
East African Railways and Harbours Administration

(1) Amended by L.N. 84/1966

Eastern Nigeria  
 Employing Authorities under the Overseas Superannuation Scheme  
 Falkland Islands  
 Federal Republic of Nigeria  
 Federation of Malaya  
 Federated Malay States  
 Federation of Nigeria  
 Federation of Rhodesia and Nyasaland  
 Fiji  
 Gambia  
 Ghana  
 Gibraltar  
 Gilbert and Ellice Islands  
 Gold Coast  
 Grenada  
 Guyana  
 Hong Kong  
 Interim Commissioner for the West Indies  
 Jamaica  
 Kenya  
 Kenya and Uganda Railways and Harbours Administrations  
<sup>1</sup>Kingdom of Lesotho  
 Leeward Islands (before 1.7.1956)  
 Malawi  
 Malayan Establishment  
 Malayan Union  
 Malaysia  
 Malta  
 Mauritius  
 Mid West Nigeria  
 Montserrat  
 Nigeria  
 North Borneo  
 Northern Nigeria  
 Northern Rhodesia  
 Nyasaland  
 Overseas Audit Department (Home Establishment)  
<sup>1</sup>Republic of Botswana  
 Sabah  
 St. Christopher, Nevis and Anguilla  
 St. Helena  
 St. Lucia  
 St. Vincent  
 Sarawak  
 Seychelles

(1) added by S.I. 3 of 1967.

(2) added by Law 23 of 1965.



**C.298**

Sierra Leone  
Singapore  
Somaliland Protectorate  
Southern Cameroons  
Southern Rhodesia  
Straits Settlements  
Swaziland  
Tanganyika  
The West Indies (Federation)  
Tonga  
Trinidad and Tobago  
Turks and Caicos Islands  
Uganda  
Unfederated Malaya States  
United Kingdom of Great Britain and Northern Ireland  
(1) United Republic of Tanzania  
Virgin Islands  
Western Nigeria  
Zambia  
Zanzibar  
Service under the Overseas Act, 1958. (6 & 7 Eliz. 2.c.14.)

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(1) inserted by Law 23 of 1965

**Statutory Instrument No. 1 of 1967.**

**THE LOCAL COUNCILS' EMPLOYEES PROVIDENT FUND LAW, 1966**  
**THE LOCAL COUNCILS' EMPLOYEES PROVIDENT FUND REGULATIONS, 1967**  
(Published on 6th January, 1967)

In exercise of the powers vested in him by section 3 of the Local Councils' Employees Provident Fund Law, 1966 (No. 38 of 1966) His Excellency the President hereby makes the following regulations.

**Title and Commencement.**

1. These regulations may be cited as the Local Councils' Employees Provident Fund Regulations, 1967.

**Interpretation.**

2. In these regulations unless the context otherwise requires —

“Board” means the Board of Management of the Fund established under regulation 4 ;

“financial year” means the period of twelve months ending on the 31st March in any year ;

“Fund” means the “Local Councils' Employees Provident Fund” established under regulation 3 ;

“legal personal representative” in relation to a person who is dead, means the person in whom by law or by customary law, whichever may be applicable, the estate of that person is vested ;

“contributor” means a person in the service of a Council and who has not attained his or her 50th birthday on entering local Government Service ;

“salary” does not include any allowance ;

“representative of Council” means a town or district councillor ;

“representative of contributors” means a person employed by a town or district council.

**Establishment of Fund.**

3. There is hereby established a Fund to be known as the Local Councils' Employees Provident Fund.

**Establishment of Board of Management of Fund.**

4. (1) There is hereby established a Board of Management of the Fund consisting of

(a) The Deputy Financial Secretary who shall be Chairman ;

(b) the Permanent Secretary, Ministry of Local Government and Lands ;

(c) two persons appointed by the Minister who shall be representatives of Councils and shall be appointed in respect of each financial year ;

## **D.2**

(d) two persons appointed by the Minister who shall be representatives of contributors and shall be appointed in respect of each financial year.

(2) Persons appointed in terms of paragraphs (c) and (d) of sub-regulation (1) shall be eligible for appointment in respect of any other financial year.

(3) Any vacancy in the membership of the Board under paragraphs (c) and (d) of sub-regulation (1) shall be filled by the Minister as soon as may be.

(4) The Board shall submit to the Minister as soon as practicable after each financial year, the audited accounts of the Fund together with such particulars concerning the working of the Fund as the Minister may require.

### **Meetings of the Board.**

6. (1) The Board shall meet at least once in every financial year and may hold such meetings as the Chairman may determine.

(2) Any vacancy in the membership of the Board shall not affect the powers of the remaining members in the control and management of the Fund.

(3) Meetings of the Board shall be held on such days and at such time and place as the Chairman may decide.

(4) All decisions regarding the Fund shall be made at meetings of the Board and shall be determined by the vote of the majority of the members present and voting.

(5) At all meetings of the Board the Chairman shall have a casting vote in addition to his original vote.

(6) In the absence for any reason of the Chairman at any meeting the Permanent Secretary, Ministry of Local Government and Lands, shall preside.

### **Expenses of Management and Administration.**

7. The reasonable expenses of the management and administration of the Fund shall be paid out of the Fund.

### **Contributor's Payments into Fund.**

8. Every Council shall, out of the salary due to each contributor each month deduct an amount equal to one twentieth of the salary in respect of that month.

### **Council's Payments into Fund.**

9. Every Council shall make each month in respect of every contributor, a payment equal to that deducted from the contributor's salary for that month.

### **Contributor's Accounts.**

10. The contributions deducted from the salary of every contributor each month and the equivalent contribution from the Council shall be paid to the Accountant-General not later than the 20th of the next following month and such contributions shall be credited to the contributors' accounts to be maintained in respect of each contributor.

### **D.3**

#### **Investment of Money in the Fund.**

11. The Accountant-General shall pay to the National Development Bank not later than the last day of that month the moneys paid to him by each Council during that month less any amounts required to be paid in that month under Regulations 14, 15 and 16. The National Development Bank shall be responsible for investing those moneys from time to time at the market rate ruling at the time of the investment and shall ensure as far as possible that those moneys are invested as soon as may be. The administration procedures and the policy relating to investments shall be the responsibility of and be determined from time to time by the Board of Management and by the Board of the National Development Bank, having regard primarily to the best interests of the contributors and of Botswana.

#### **Interest to be Paid.**

12. (1) As soon as practicable after the end of every financial year the National Development Bank shall notify the Board and the Accountant-General of the amount and rate of interest earned by the moneys so deposited with the Bank.

(2) As soon thereafter as practicable after notification has been received by the Board under sub-regulation (1) the Board shall determine and publish in the *Gazette* a rate of interest to be credited to depositors' accounts in the Fund in respect of that financial year.

(3) Such interest shall be credited separately on the amounts paid by contributors and the amounts contributed by Councils and shall be calculated as accruing in respect of each such amount with effect from the first day of the month following the month in which the amount was paid into the Fund provided that no interest shall accrue on any account closed within twelve months from the coming into operation of these Regulations.

#### **Information to Depositors.**

13. As soon as practicable after the end of every financial year, the Accountant-General shall inform each contributor of the total amount standing to his credit in the Fund at that date.

#### **Death or Termination of Service.**

14. (1) If a contributor dies or ceases to be an employee of a Council in any of the following circumstances, that is to say —

- (a) retirement after the age of fifty years or later up to the age of sixty-five years, subject to a minimum of 20 years' service ;
- (b) retirement at the age of sixty-five years which shall be the compulsory age of retirement ;
- (c) retirement on medical evidence that he or she is incapable by reason of infirmity of mind or body from discharging his or her duties as a Council employee ;
- (d) abolition of office ;

the amount standing to his or her credit in the Fund shall be paid out of the Fund to the contributor or to his or her legal personal representative as the case may be.

#### **D.4**

(2) Where a contributor ceases to be a Council employee in circumstances other than those set out in sub-regulation (1) then —

- (a) if he resigns from the service and the resignation is accepted by the Council he shall be entitled to the amount of the deposits made by him together with such interest as may have accrued thereon at the date of resignation.
- (b) if he is dismissed from the service of a Council in circumstances which constitute a major offence in terms of the Local Government (Conditions of Service) Regulations, 1966 he shall forfeit any claims on the Provident Fund.

#### **Closing of Accounts.**

15. (1) When a contributor ceases to be employed by a Council his account shall be closed and interest for the period from the end of the previous financial year to the date of the closure of his account shall be credited thereto calculated at the rate fixed by the Board for the previous financial year.

(2) Notice of the total amount then standing to his credit in the Fund and to which he is entitled shall thereupon be given in accordance with the provisions of Regulation 14 to —

- (a) the contributor ; or
- (b) if the contributor is dead to his or her legal personal representative.

(3) Any Council's contribution in respect of a contributor and interest thereupon not paid out to a contributor in terms of sub-regulation (1) and (2) (a) of regulation 14 and any contributor's payments and interest thereon not paid out to a contributor in terms of sub-regulation (2) (b) of regulation 14 shall be refunded to the Council or if more than one Council to each of those Councils.

#### **Unclaimed Moneys.**

16. (1) If for a period of five years there have been moneys standing in a contributor's account and the whereabouts of the contributor or his legal personal representative, as the case may be, are not known the account of such contributor shall cease to bear interest with effect from the date of expiration of that period.

(2) On the expiry of the period referred to in sub-regulation (1) of this regulation the Accountant-General shall cause the name of the contributor concerned to be published in the *Gazette*.

(3) If within the period of one year from the publication of the name of the contributor in terms of sub-regulation (2) of this regulation the whereabouts of the contributor or of his legal personal representative as the case may be are still unknown the moneys in such contributor's account shall be refunded to the Council or if more than one Council to each of those Councils.

Cabinet Office,  
GABERONES.  
29th December, 1966.

G. WINSTANLEY,  
for Secretary to the Cabinet.

**Statutory Instrument No. 2 of 1967.****STATUTORY INSTRUMENTS (UNITED KINGDOM)**

The following instruments, that is to say —

S.I. 1966 No. 1174 The Botswana (Procedure in Appeals to Judicial Committee of Privy Council) Order 1966; and

S.I. 1966 No. 1175 The Botswana (Pending Appeals) Order 1966;

which came into operation immediately before 30th September, 1966, are set out for general information in the Schedule.

F. WOOD,  
for Attorney-General.

Attorney-General's Chambers,  
GABERONES.  
5th January, 1967.

**SCHEDULE****STATUTORY INSTRUMENTS****1966 No. 1174****JUDICIAL COMMITTEE****The Botswana (Procedure in Appeals to Judicial Committee of Privy Council) Order 1966**

*Made* - - - - 20th September 1966

*Coming into Operation* Immediately before  
30th September 1966

At the Court at Balmoral, the 20th day of September 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in the exercise of the powers in that behalf by section 24 of the Judicial Committee Act 1833(a) as applied by section 5 of the Botswana Independence Act 1966(b) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Botswana (Procedure in Appeals to Judicial Committee of Privy Council) Order 1966 and shall come into operation immediately before 30th September 1966. Citation and commencement.

2.—(1) In this Order, unless the context otherwise requires—  
“appeal” means appeal from a judgment of the Court to the Judicial Committee; Interpretation.

“Court” means the Court of Appeal for Botswana;

## D.6

“judgment” means a judgment of the Court given in the exercise of any jurisdiction conferred upon it by any law for the time being in force in Botswana and includes a decree, order, ruling, sentence or decision of the Court;

“Judicial Committee” means the Judicial Committee of the Privy Council;

“record” means the aggregate of papers relating to an appeal (including pleadings, proceedings, evidence and judgments) proper to be laid before the Judicial Committee on the hearing of an appeal;

“Registrar” means the Registrar of the Court or other proper officer having custody of the records of the Court.

(2) The Interpretation Act 1889(c) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of Parliament.

General  
procedure.

3. Any jurisdiction conferred on the Judicial Committee by or under section 14 of the Botswana Independence Order 1966(d) or section 108 of the Constitution contained in Schedule 2 thereto shall be exercised in accordance with the Judicial Committee Rules 1957(e) as amended by the Judicial Committee (Fees) Rules 1963(f), subject to the modifications set out in Schedule 1 to this Order, and the provisions of this Order.

Application  
for leave  
to appeal.

4. Applications to the Court for leave to appeal shall be made by motion or petition within twenty-one days of the date of the judgment to be appealed from, and the applicant shall give all other parties concerned notice of his intended application.

Conditional  
leave to  
appeal.

5. Leave to appeal to the Judicial Committee in pursuance of the provisions of any law relating to such appeals shall, in the first instance, be granted by the Court only—

(a) upon condition of the appellant, within a period to be fixed by the Court but not exceeding ninety days from the date of the hearing of the application for leave to appeal, entering into good and sufficient security to the satisfaction of the Court in a sum not exceeding £500 sterling for the due prosecution of the appeal and the payment of all such costs as may become payable by the applicant in the event of his not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of the Judicial Committee ordering the appellant to pay the costs of the appeal (as the case may be); and

(b) upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purposes of procuring the preparation of the record and the despatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.

Powers of a  
single judge.

6. A single judge of the Court shall have power and jurisdiction—

(a) to hear and determine any application to the Court for leave to appeal in any case where under any provision of law an appeal lies as of right from a decision of the Court;

(b) generally in respect of any appeal pending before the Judicial

## D.7

Committee, to make such order and to give such other directions as he shall consider the interests of justice or circumstances of the case require:

Provided that any order, directions or decision made or given in pursuance of this section may be varied, discharged or reversed by the Court when consisting of three judges which may include the judge who made or gave the order, directions or decision.

7. Where the judgment appealed from requires the appellant to pay money or do any act, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such order as may be made on the appeal.

Stay of execution.

8. For the purposes of sections 5 and 7 of this Order, a person may provide security in any manner that the Court may approve in his case, and for the avoidance of doubts it is declared that such security may with the approval of the Court consist in whole or in part of a deposit of money.

Manner of providing security.

9.—(1) The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

Preparation of record.

(2) The Registrar, as well as the parties and their legal agents, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and, generally, to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the record.

(3) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the record, as finally printed (whether in Botswana or in England) shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(4) The reasons given by judges of the Court for or against any judgment pronounced in the course of the proceedings out of which the appeal arises shall be communicated by them in writing to the Registrar, and shall be included in the record.

10.—(1) The record may be printed in Botswana or may be printed in England if the parties agree to its being printed but in the absence of such agreement shall be duplicated by process approved by the Registrar

Printing of the record.



## D.8

of the Privy Council. If the record is to be printed it shall be printed in accordance with the Rules set forth in Schedule 2 to this Order.

(2) Where the record is printed in Botswana the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council forty copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court.

(3) Where the record is to be printed or duplicated in England, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such record, together with an index of all the papers and exhibits in the case. No other certified copies of the record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

(4) Where part of the record is printed in Botswana and part is to be printed or duplicated in England, subsections (2) and (3) of this section shall, as far as possible, apply to such parts as are printed in Botswana and such as are to be printed or duplicated in England respectively.

Consolidation of appeals.

**11.** Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

Failure to prosecute appeal.

**12.** Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent, rescind the order granting conditional leave to appeal notwithstanding the appellant's compliance with the conditions imposed by such an order, and may give such directions as to the costs of the appeal and security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

Notice to other parties.

**13.**—(1) On an application for final leave to appeal, the Court may enquire whether notice or sufficient notice of the application has been given by the appellant to parties concerned and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court, the justice of the case requires.

(2) The Registrar shall, with all convenient speed, transmit to the Registrar of the Privy Council a certificate to the effect that the respondent has received notice, or is otherwise aware, of the order of the Court granting final leave to appeal and of the transmission of the record to England.

Prosecution of appeal.

**14.** An appellant who has obtained final leave to appeal shall prosecute his appeal in accordance with the Rules for the time being regulating the general practice and procedure in appeals to Her Majesty in Council.

**15.—**(1) An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as the Court may direct. Withdrawal of appeal.

(2) Where an appellant, having obtained final leave to appeal, desires, prior to the despatch of the record to England, to withdraw his appeal, the Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express order, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

**16.** Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the despatch of the record to England, any respondent may, after giving the appellant due notice of his intended application, apply to the Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express order, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct. Dismissal for non-prosecution.

**17.—**(1) Where at any time between the order granting final leave to appeal and the despatch of the record to England, the record becomes defective by reason of the death or change of status of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of or in addition to the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express order. Substituting parties.

(2) Where the record subsequently to its despatch to England becomes defective by reason of the death or change of status of a party to the appeal, the Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered on the record, in place of, or in addition to, the party who has died or undergone a change of status.

*W. G. Agnew.*

#### SCHEDULE 1

#### Section 3

**Modifications of the Judicial Committee Rules 1957, as amended by the Judicial Committee (Fees) Rules 1963, in relation to appeals from the Courts of Botswana.**

1. Save as is otherwise provided in this schedule or where the context otherwise requires, any reference in the Rules to Her Majesty in Council shall, except in the case of the definition of "Agent" in paragraph (i) of Rule 1, be construed as a reference to the Judicial Committee.

## D.10

2. For the words "to advise Her Majesty" in Rule 3 there shall be substituted the words "to decide".

3. For the words "agree to advise Her Majesty" in Rule 6 there shall be substituted the word "decide", and the words "in their Report" shall be deleted.

4. The words "Her Majesty in Council, on the advice of" in Rule 10 shall be deleted.

5. The words "recommend to Her Majesty to" in Rule 11 shall be deleted.

6. For the words "recommend to Her Majesty the dismissal of" in Rule 36 there shall be substituted the word "dismiss".

7. The following Rule shall be substituted for Rule 45:—

"45. All Petitions, including Petitions for orders or directions as to matters of practice or procedure arising after the lodging of the Petition of Appeal and not involving any change in the parties to the Appeal, shall be addressed to the Judicial Committee."

8. The words "make their Report to Her Majesty on such Petition, or" and the words "as the case may be" in Rule 56 shall be deleted.

9. For the words "Her Majesty's Order in Council" in the heading to Rule 80 and in that Rule there shall be substituted the words "the Order".

10. For the words "Her Majesty's Order in Council" in the heading to Rule 82 and in that Rule there shall be substituted the words "the Order".

11. The words "Her Majesty in Council or" in Rule 85 shall be deleted.

12. For the words "Her Majesty in Council" in Rule 87 there shall be substituted the words "the Judicial Committee in relation to appeals from the Court of Appeal of Botswana".

13. The following items in Part II of Schedule B to the Rules shall be omitted, that is to say:—

	£	s.	d.
"Original Order of Her Majesty in Council determining an Appeal ... ..	6	5	0
Any other original Order of Her Majesty in Council ...	3	15	0
Plain copy of an Order of Her Majesty in Council ...	6	6	0

## Section 10

## SCHEDULE 2

### RULES FOR PRINTING CASES

1. Records and cases in appeals to Her Majesty in Council shall be printed in the form known as demy quarto.

2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

3. The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter and notes.

4. The number of lines in each page of pica type shall be forty-seven or thereabouts, and every tenth line shall be numbered in the margin.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes provision for the procedure in appeals from the Court of Appeal for Botswana to the Judicial Committee of the Privy Council.

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S T A T U T O R Y      I N S T R U M E N T S

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1966 No. 1175

AFRICA

**The Botswana (Pending Appeals) Order 1966**

<i>Made - - - -</i>	<i>20th September 1966</i>
<i>Laid before Parliament</i>	<i>26th September 1966</i>
<i>Coming into Operation</i>	<i>Immediately before 30th September 1966</i>

At the Court at Balmoral, the 20th day of September 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by sections 6 and 7 of the Botswana Independence Act 1966(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

**1.**—(1) This Order may be cited as the Botswana (Pending Appeals) Order 1966.

Citation,  
commence-  
ment and  
construction.

(2) This Order shall come into operation immediately before 30th September 1966 (in this Order referred to as "the appointed day").

(3) The Interpretation Act 1889(b) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

**2.**—(1) Any appeal or petition for special leave to appeal to Her Majesty in Council from a decision given by the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal on appeal from the High Court of the Bechuanaland Protectorate, being an appeal or petition that is pending immediately before the appointed day and—

Transitional  
provisions  
relating to  
certain  
appeals.

(a) in the case of an appeal, is one in which the records have been registered in the Office of the Privy Council before that day ; or

(b) in the case of a petition, is one that has been lodged in that Office before that day,

may be continued before and disposed of by the Judicial Committee of the Privy Council in accordance with the law regulating the procedure in such appeals to Her Majesty in Council that is in force immediately before that day.

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(a) 1966 c. 23.

(b) 1889 c. 63.

**D.12**

(2) Any order made by the Judicial Committee of the Privy Council on any appeal that may be continued before and disposed of by the Judicial Committee by virtue of subsection (1) of this section shall be enforced in accordance with the law regulating the enforcement of like orders by the Judicial Committee that is in force on the appointed day.

*W. G. Agnew.*

**EXPLANATORY NOTE**

*(This Note is not part of the Order.)*

This Order makes provision for the continuance before the Judicial Committee of the Privy Council of certain appeals to Her Majesty in Council from the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal that are pending immediately before 30th September 1966.

**Statutory Instrument No. 3 of 1967.**

THE PENSIONS (CONSOLIDATION) LAW, 1965  
**THE PENSIONS (AMENDMENT) REGULATIONS, 1967**  
(Published on 20th January, 1967)

In exercise of the Powers vested in him by section 4 (1) of the Pensions (Consolidation) Law, 1965, His Excellency the President hereby makes the following regulations —

**Title.**

1. These regulations may be cited as the Pensions (Amendment) Regulations, 1967.

**Amendment of Regulation 18 (2) (b) of the Pensions Regulations, 1965.**

2. Regulation 18 (2) (b) of the Pensions Regulations, 1965 (contained in the Second Schedule to the Pensions (Consolidation) Law, 1965) (hereinafter referred to as the principal regulations) is hereby amended by the addition of the following proviso —

“Provided that if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments of that office have not been considered in a general revision of pensionable emoluments, then for the purposes of this Regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the President in his discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of the said revision. ”.

**Amendment of the Schedule to the Pensions Regulations, 1965.**

3. The List of Scheduled Administrations and Authorities appearing in the Schedule to the principal regulations is hereby amended by the addition of —

“Guyana” after “Grenada”;

“Kingdom of Lesotho” after “Kenya and Uganda Railways and Harbour Administration”; and

“Republic of Botswana” after Overseas Audit Department (Home Establishment)”.

**Revocation of Legal Notice No. 78 of 1966.**

4. The Pensions (Amendment) Regulations, 1966 published in Legal Notice No. 78 of 1966, are hereby revoked.

Cabinet Office,  
GABERONES.  
5th January, 1967.

G. WINSTANLEY,  
for Secretary to the Cabinet.

D.14

**Statutory Instrument No. 4 of 1967.**

**BOTSWANA INDEPENDENCE ORDER 1966  
CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1967 (NO. 7)**

In exercise of the powers vested in him by section 4 (3) (a) of the Botswana Independence Order 1966 (Legal Notice No. 83 of 1966) His Excellency the President hereby makes the following Order —

**Title.**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 7).

**Amendment of the Mineral Oil Mining Regulations.**

2. The Mineral Oil Mining Regulations (printed on pages 1448 to 1452 of Vol. III of the 1959 edition of the laws of Botswana) are hereby amended —

- (a) by the deletion of regulation 1 ;
- (b) by the substitution of "the President" for "Her Majesty's Commissioner" in regulations 2, 3, 6, 7, 9, 10 and 12 ;
- (c) by the substitution of "the Commonwealth" for "Her Majesty's dominions" in regulations 3 and 8 and the Schedule.

Office of the President,  
GABERONES.  
12th January, 1967.

A. MOGWE,  
Permanent Secretary.

**Statutory Instrument No. 5 of 1967.**

**THE TRADING ACT, 1966  
THE TRADING (PRESCRIBED FORMS) REGULATIONS, 1967**

In exercise of the powers vested in him by section 47 of the Trading Act, 1966 (No. 6 of 1966) the Minister of Commerce, Industry and Water Affairs hereby makes the following Regulations —

**Title.**

1. These Regulations may be cited as the Trading (Prescribed Forms) Regulations, 1967.

**Prescribed Forms.**

2. The forms set out in the Schedule are hereby prescribed in terms of the aforesaid Act.

D.15

SCHEDULE

**APPLICATION FOR LICENCE**  
(Section 7 (1))

Form T.1

FULL NAME .....

.....  
(In block letters — Surname first)

NATIONALITY .....

AGE ..... SEX .....

(If partnership, supply above details for all partners and if company, supply above details for all Directors)

TYPE OF LICENCE REQUIRED .....

PLACE OF BUSINESS .....

A ..... certificate in terms of section 10

was issued on ..... by .....

..... at .....

and is attached to this application.

.....  
Date

.....  
Signature of Applicant



D.16

**TRADING LICENCE**  
(Section 8 (1))

Form T.2

Licence

Register

Folio .....

Station .....

Head : LICENCES

Sub-Head : TRADING

LICENCE is hereby granted to .....  
of ..... Business (*name*)  
to carry on the business of .....  
at the premises at .....  
under item ..... of the First Schedule  
of the Trading Act, 1966 (No. 6 of 1966), for the period from the ..... day  
of ..... 19 ..... to the 31st December, 19 ..... the sum of ..... Rand  
for the licence having been paid.

Particulars .....

Endorsements .....

.....

.....

*Licence Officer*

**NOTE : —** This Licence does not give the holder the right to the use of the land on which the trading station is situated. He must obtain this right from the owner of the land.

*The duplicate copy to be rendered to the Accountant-General with the weekly machine tape.*

D.17

**APPLICATION FOR CERTIFICATE**  
(Section 9 (1))

Form T.3

FULL NAME .....  
(Surname first in block capitals)

ADDRESS .....

.....

NATIONALITY .....

AGE ..... SEX .....

(If partnership, supply above details for all partners and if company, supply above details for all Directors)

TYPE OF CERTIFICATE REQUIRED .....

ANY PREVIOUS BUSINESS EXPERIENCE ? .....

If so (a) Where ? .....

(b) What kind ? .....

(c) Position held ? .....

(d) For how long ? .....

ANY KNOWLEDGE OF BOOKKEEPING ? .....

If so (a) What kind ? .....

(b) For how long ? .....

\* IS BUSINESS SITE AVAILABLE ? .....

If so (a) Where ? .....

(b) Owned or Rented ? .....

(c) If rented at what rent ? .....

I PROPOSE TO INVEST R..... IN THE BUSINESS.

.....  
Date

.....  
Signature

\* This application must be accompanied by the relevant plans and/or blueprints.

D.18

**CERTIFICATE**  
(Section 10 (4))

Form T.4

THIS CERTIFICATE ENTITLES .....  
....., WHOSE ADDRESS IS .....  
TO APPLY FOR A ..... LICENCE  
TO THE ..... LICENCE OFFICER.  
PARTICULARS TO BE INSERTED ON LICENCE: —

ENDORSEMENTS TO BE INSERTED ON LICENCE: —

DATE ..... PLACE .....  
.....  
*Licensing Authority*

**APPLICATION FOR APPROVAL OF APPOINTMENT OF MANAGER**  
(Section 19 (4))

Form T.5

I, .....  
hereby apply for approval of the appointment of Mr./Mrs./Miss .....  
..... to be the Manager  
for my ..... business carried on at: (*full*  
*address*) .....

.....  
*Signature*  
Date .....  
Place ..... Approved/Disapproved

.....  
*Licensing Authority*

D.19

**NOTICE OF APPLICATION FOR CERTIFICATE**  
(Section 33 (1))

Form T.6

Notice is hereby given that the undersigned intends to apply for a certificate  
in terms of section 10 of the Trading Act, 1966 (No. 6 of 1966) to obtain a

.....

in respect of the premises situated at

.....

and that the

..... COUNCIL,

.....

has determined that the application shall be heard by the Licensing Authority on the

....., 19.....

Any person objecting to the grant of such certificate should, within 7 days of the  
second publication of this notice, give notice in writing to the said Council of his  
intention to oppose such application and state the grounds upon which his objection  
is based.

.....  
*Name*

Address .....

Date .....

P. W. REARDON,  
Permanent Secretary,

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
11th January, 1967.



**Statutory Instrument No. 6 of 1967.**

**BOTSWANA INDEPENDENCE ORDER 1966  
CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1967 (NO. 8)**

(Published on 27th January, 1967)

In exercise of the powers vested in him by section 4 (3) (a) of the Botswana Independence Order 1966 His Excellency the President hereby makes the following Order —

**Title.**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 8).

**Amendment of Section 1 of Cap. 3.**

2. Section 1 of the Court of Appeal Proclamation (Cap. 3) is amended by the deletion of "(Bechuanaland Protectorate)".

**Amendment of Section 2 of Cap. 3.**

3. Section 2 of the Court of Appeal Proclamation (Cap. 3) is amended by the deletion of the definition of "Court of Appeal" and the substitution of " "Court of Appeal" means the Court of Appeal for Botswana established by section 100 of the Constitution of Botswana".

Office of the President,  
GABERONES.  
19th January, 1967.

G. WINSTANLEY,  
for Permanent Secretary.

**Statutory Instrument No. 7 of 1967.**

**THE IMMIGRATION (CONSOLIDATION) LAW, 1966  
NOTICE EXEMPTING MEMBERS OF CLASS OF PERSONS FROM OBTAINING A  
RESIDENCE PERMIT IN ORDER TO RESIDE IN BOTSWANA**

(Published on 27th January, 1967)

In exercise of the powers vested in him by section 19 (2) (c) of the Immigration (Consolidation) Law, 1966 (No. 19 of 1966) the Minister of Home Affairs hereby exempts members of the class of persons referred to in the Schedule who are in possession of valid passports from obtaining residence permits in order to reside in Botswana.

**SCHEDULE**

- (1) Employees of the United Nations Organisation ;
- (2) Members of the United States of America Peace Corps.

Ministry of Home Affairs,  
GABERONES.  
19th January, 1967.

B. MOOKODI,  
Permanent Secretary.

D.22

Statutory Instrument No. 3 of 1967.

THE EDUCATION LAW, 1966  
THE EDUCATION (FEES) REGULATIONS, 1967

In exercise of the powers vested in him by sections 26 and 30 of the Education Law, 1966, the Minister of Labour and Social Services hereby makes the following regulations —

**Title.**

1. (1) These regulations may be cited as the Education (Fees) Regulations, 1967.
- (2) These regulations shall come into operation on the promulgation thereof:

Provided that the provisions of regulations 4 (3) and 5 (3) shall come into operation on a date to be notified by the Minister in the *Gazette*.

**Interpretation.**

2. In these regulations —

“education committee” means an education committee appointed in terms of section 24 (1) of the Local Government (District Councils) Law, 1965, or in terms of regulation 24 (1) of the Town Council Regulations, 1966;

“fee” means a fee payable in terms of these regulations for the tuition of any child at school and for the supply of books and materials in connexion therewith;

“person responsible” means the person responsible for the payment of a fee in terms of regulation 3;

“prescribed date” means the day before that on which the school opens for any term;

“school” means an aided school, Government school or Local Government School.

**Responsibility for payment of fees.**

3. The person responsible for the payment of a fee shall be the parent of the child in whose custody the child is unless some other person has undertaken to be liable for the fee, in which case that person shall be responsible.

**Fees payable at schools other than those listed in regulation 5 (1).**

4. (1) The provisions of this regulation shall not apply in respect of the schools listed in regulation 5 (1).

(2) For every child there shall be paid a fee of R6-00 *per annum* which shall be payable in three instalments of R2-00 on or before each prescribed date.

(3) For every child who attends a school in the area of a local council other than that in which a parent is ordinarily resident there shall be paid an additional fee of R6-00 *per annum* which shall be payable in three instalments of R2-00 on or before each prescribed date.

#### Increased fees payable at certain schools.

6. (1) The provisions of this regulation shall apply in respect of the former English medium primary schools at ---

Francistown	Gaberones	Lobatsi
Mabalepe	Maur	Serowe
and the Crescent School, Lobatsi.		

(2) For every child there shall be paid a fee of R36--00 *per annum* which shall be payable in three equal instalments on or before each prescribed date.

(3) For every child who attends a school in the area of a local council other than that in which a parent is ordinarily resident there shall be paid a fee of R18--00 *per annum* which shall be payable in three equal instalments on or before each prescribed date, unless, having regard to all the circumstances of the case, including the home language and social background of the child, it would not be reasonable for the Local Education Authority to expect the child to attend a school in the area in which the parent has his home.

#### Remission of school fees.

8. (1) The Local Education Authority shall have power in its sole discretion, to remit fees payable under regulation 4 or 5 ---

- (a) in respect of one child, at any one time, of a family where the parent, being the person responsible, is exempted from the payment of local government tax under the provisions of section 13 (1) (b) or (c) or 13 (3) of the Local Government Tax Law, 1965, up to an amount of 100 *per centum* of all fees payable for the child;
- (b) in respect of one child, at any one time, of a family where the parent, being the person responsible, is liable to make payment of local government tax at the minimum scale prescribed in First Schedule of the Local Government Tax Law, 1965, for the area in which he resides, up to an amount of two thirds of all fees payable for the child;

Provided that no fee shall be remitted in terms of this paragraph unless the Local Education Authority is satisfied that the parent is extremely poor.

(2) Any person seeking a remission of a fee under the provisions of this regulation shall make application to the school committee, if any, established under section 11 of the Law, otherwise to the education committee.

(3) A school committee receiving an application for remission in accordance with the provisions of subregulation (2) shall forthwith forward the application to the education committee.

(4) The total amount of all fees which may be remitted under this regulation in respect of any school at any time shall not exceed 5 *per centum* of the total amount (disregarding any remission granted in terms of this section) chargeable as fees for the year and in respect of the school concerned.

#### Remission of school fees where four or more children are at school.

7. (1) Where a parent, being the person responsible, has four children at school, the amount of any fee for the fourth child shall be reduced by one third and the amount of the instalments payable shall be reduced proportionately.



#### **D.24**

(2) Where a parent, being the person responsible, has five or more children at school, the amount of any fee for the fifth and subsequent children shall be reduced by two thirds and the amount of the instalments payable shall be reduced proportionately.

#### **Change of school during the year.**

8. (1) Subject to the provisions of subregulation (2), where any child changes his school, the person responsible shall be exempted from the payment of any fee in respect of the new school which has been paid in respect of the school which the child attended before the change.

(2) Where a child changes from a school to which the provisions of regulation 4 apply, to a school to which the provisions of regulation 5 apply, the person responsible shall be exempted from the payment of any fee in respect of the new school up to the amount paid in respect of the school which the child attended before the change.

(3) Fees shall be payable for a child who is admitted to any school during the course of a year (other than during the first month of the first term) in respect of the remainder of the year only fees for the period not attended being remitted.

#### **To whom fees payable.**

9. (1) Fees shall be paid to the Local Education Authority or to such person as may be designated by the Authority for the purpose.

(2) A receipt shall be issued to any person making payment of a fee.

#### **Production of receipts prior to admission.**

10. No child shall be admitted to any school in any term unless he first produces to the principal teacher at the school at the time of his registration as a pupil a receipt issued under regulation 9 (2) showing that all fees for the term have been paid.

#### **Reservation of places.**

11. (1) Where a child is seeking admission to any school to which he has not previously been admitted he, or the person responsible, may request the principal teacher at the school to reserve a place for him pending the payment of fees.

(2) If there is a place available for a child and an application is made in terms of subregulation (1) the principal teacher shall reserve a place for the child for a period of seven days.

#### **Special provision for 1967.**

12. The provisions of regulation 10 shall not apply in respect of the first school term in 1967:

Provided that where a receipt issued in terms of regulation 9 (2) showing that fees for the term have been paid is not produced to the principal teacher at the school on or before the 10th March, 1967, the child shall be excluded from the school and his registration as a pupil shall be cancelled.

Cabinet Office,  
GABERONES.  
27th January, 1967.

G. WINSTANLEY,  
for Secretary to the Cabinet.

**Statutory Instrument No. 9 of 1967.**

**THE CITIZENSHIP OF BOTSWANA (SUPPLEMENTARY PROVISIONS) LAW, 1966**

**THE CITIZENSHIP OF BOTSWANA REGULATIONS, 1967**

(Published on 10th February, 1967)

In exercise of the powers vested in him by section 18 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966 (No. 39 of 1966) the Minister of Home Affairs hereby makes the following regulations —

**Title.**

1. These Regulations may be cited as the Citizenship of Botswana Regulations, 1967.

**Amendment of Legal Notice No. 82 of 1966.**

2. Regulation 2 of the Citizenship of Botswana Regulations, 1966 (Legal Notice No. 82 of 1966) is hereby amended —

- (a) by the deletion of the definition of "senior government officer" and the substitution of —

“ "senior government officer" means a Permanent Secretary, Under Secretary, Assistant Secretary, Principal, Senior District Officer, District Officer or Police Officer of the rank of Assistant Superintendent or above ”;

- (b) by the addition of the following definition —

“ "minister of religion" means a minister of religion who has been appointed a marriage officer under the provisions of the Marriage Proclamation (Cap. 144)”

Ministry of Home Affairs,  
GABERONES.  
30th January, 1967.

A.H. DONALD,  
Permanent Secretary.

**D.26**

**Statutory Instrument No. 10 of 1967**

**THE CO-OPERATIVE SOCIETIES LAW, 1962**  
**THE CO-OPERATIVE SOCIETIES REGULATIONS, 1967**

(Published on the 10th February, 1967)

In exercise of the powers vested in him by section 51 of the Co-operative Societies Law, 1962 (No. 41 of 1962) His Excellency the President hereby makes the following regulations —

**Title.**

1. These Regulations may be cited as the Co-operative Societies Regulations, 1967.

**Amendment to Government Notice No. 93 of 1964.**

2. Regulation 13 of the Co-operative Societies Regulations, 1964 (G.N. No. 93 of 1964) is hereby amended in subregulations (2) (b) and (3) (e) by the addition after "society" of the words " , being a society other than a productive, industrial or handicraft society one of the objects of which is to provide paid work for its members".

Cabinet Office,  
GABERONES.  
1st February, 1967.

A. MOGWE,  
for Secretary to the Cabinet.

**Statutory Instrument No. 11 of 1967.**

THE CITIZENSHIP OF BOTSWANA (SUPPLEMENTARY PROVISIONS) LAW, 1966

**THE VERNACULAR LANGUAGE (PRESCRIPTION) REGULATIONS, 1967**

(Published on 17th February, 1967)

In exercise of the powers vested in him by section 18 (a) of the Citizenship of Botswana (Supplementary Provisions) Law, 1966, the Minister of Home Affairs hereby makes the following regulations —

**Title.**

1. These regulations may be cited as the Vernacular Language (Prescription) Regulations, 1967.

**Principal Vernacular Language.**

3. The Tswana language is prescribed for the purposes of section 7 (1) (d) of the Law.

Ministry of Home Affairs,  
GABERONES.  
6th February, 1967.

A.H. DONALD,  
Permanent Secretary.

**Statutory Instrument No. 12 of 1967.**

CONSTITUTION OF BOTSWANA

**RULES OF PROCEDURE OF THE HOUSE OF CHIEFS (AMENDMENT) 1967**

In exercise of the powers vested in them by section 84 of the Constitution (Legal Notice No. 83 of 1966) the House of Chiefs, with the approval of His Excellency the President, hereby makes the following Rules —

**Title.**

1. These Rules may be cited as the Rules of Procedure of the House of Chiefs (Amendment) 1967.

**Amendment of Legal Notice No. 27 of 1965.**

2. Rule 3 of the Rules of Procedure of the House of Chiefs (Legal Notice No. 27 of 1967) is amended by the deletion of sub-rule (2) and the substitution of —

“(2) A person so elected as Chairman or Deputy Chairman shall hold office until —

(a) he resigns such office by writing under his hand addressed to the Secretary;

(b) he ceases to be a member of the House of Chiefs; or

(c) a person is elected as Chairman or Deputy Chairman, as the case may be, at an election held in pursuance of sub-rule (1). ”.

House of Chiefs,  
GABERONES.  
6th February, 1967.

G. WINSTANLEY,  
Secretary to the House of Chiefs.



**Statutory Instrument No. 13 of 1966.**

**MINES AND MINERALS PROCLAMATION  
THE MINES AND MINERALS (TATI DISTRICT) ORDER, 1967**

In exercise of the powers vested in him by section 1 (3) of the Mines and Minerals Proclamation (Cap. 122) His Excellency the President hereby makes the following order —

**Title.**

1. This order may be cited as the Mines and Minerals (Tati District) Order, 1967.

**Application of Sections of Cap. 122 to Tati District.**

2. The provisions of section 82 of the Mines and Minerals Proclamation (Cap. 122), including any regulations made in terms of that section as read with section 125 of the Proclamation, are hereby applied to the land referred to in section 1 (2) of the Proclamation.

Cabinet Office,  
GABERONES.  
10th February, 1967.

A. MOGWE,  
Secretary to the Cabinet.

**Statutory Instrument No. 14 of 1967.**

**THE EDUCATION LAW, 1966  
DATE OF OPERATION**

In exercise of the powers vested in him by section 1 (1) of the Education Law, 1966, His Excellency the President hereby appoints the 24th of February, 1967, as the day on which the Education Law, 1966, shall, subject to the provisions of subsections (2) and (3) of section 1 of that Law, come into operation.

Cabinet Office,  
GABERONES.  
21st February, 1967.

A. MOGWE,  
Secretary to the Cabinet.



**Statutory Instrument No. 15 of 1967.**

THE PROTECTED PLACES AND AREAS LAW, 1965  
**THE PROTECTED AREAS (FRANCISTOWN) ORDER, 1967**  
(Published on 3rd March, 1967)

In exercise of the powers vested in him by section 5 (1) of the Protected Places and Areas Law, 1965 (No. 18 of 1965) His Excellency the President hereby makes the following Order —

**Title.**

1. This Order may be cited as the Protected Areas (Francistown) Order, 1967.

**Declaration of Protected Area.**

2. All the land within a distance of 50 yards outside the perimeter fence of the Central African Relay Station at Francistown is declared to be a protected area for the purposes of the Law.

Cabinet Office,  
GABERONES.  
17th February, 1967.

A. MOGWE,  
for Secretary to the Cabinet





**Statutory Instrument No. 16 of 1967.**

**THE COMMISSIONERS OF OATHS PROCLAMATION**

**AMENDMENT OF PART II OF THE SCHEDULE TO THE COMMISSIONERS OF  
OATHS PROCLAMATION**

(Published on 10th March, 1967)

In exercise of the powers vested in him by section 2 (2) of the Commissioners of Oaths Proclamation (Cap. 50) the Minister of Home Affairs hereby amends Part II of the aforesaid Proclamation by the addition of the following —

“16.   Manager of the National Development Bank                      The whole of Botswana.”

Ministry of Home Affairs,  
GABERONES.  
15th February, 1967.

A.H. DONALD,  
Permanent Secretary.



**Statutory Instrument No. 17 of 1967.**

THE EXPLOSIVES LAW, 1961

**THE EXPLOSIVES (AMENDMENT) REGULATIONS, 1967**

(Published on 17th March, 1967)

In exercise of the powers vested in him by section 4 (1) of the Explosives Law, 1961, (No. 31 of 1961) His Excellency the President hereby makes the following regulations —

**Title.**

1. These regulations may be cited as the Explosives (Amendment) Regulations, 1967.

**Amendment of Regulation 61A of G.N. No. 44 of 1963.**

2. Regulation 61A of the Explosives Regulations, 1963 (G.N. 44 of 1963 as amended by G.N. 87 of 1963) is amended by the insertion after “Inspector” of “or the Mining Commissioner”.

Cabinet Office,  
GABERONES.  
6th March, 1967.

P. J. HEADY,  
for Secretary to the Cabinet.

1. The first step in the process of creating a new product is to identify a market need. This involves conducting market research to determine what consumers want and what problems they are facing. Once a need is identified, the next step is to develop a concept that addresses the need. This is often done through brainstorming and prototyping. The third step is to create a business plan that outlines the costs, revenue, and potential risks of the new product. Finally, the product is launched into the market and its performance is monitored.

**Statutory Instrument No. 18 of 1967.**

**STATUTORY INSTRUMENT (UNITED KINGDOM)**

The following instrument, that is to say —

S.I. 1966 No. 1173 The Botswana (Compensation and Retiring Benefits) Order 1966 ;  
which came into operation immediately before 30th September, 1966, is set out for general  
information in the Schedule.

Attorney-General's Chambers,  
GABERONES.  
14th March, 1967.

F. WOOD,  
for Attorney-General.

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1966 No. 1173

## AFRICA

**The Botswana (Compensation and Retiring Benefits) Order  
1966**

*Made - - - - - 20th September 1966*  
*Laid before Parliament 26th September 1966*  
*Coming into Operation Immediately before 30th September 1966*

At the Court at Balmoral, the 20th day of September 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of all the powers in that behalf by the Foreign Jurisdiction Act 1890(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Botswana (Compensation and Retiring Benefits) Order 1966.

Citation  
and  
commence-  
ment.

(2) This Order shall come into operation immediately before 30th September 1966.

2.—(1) In this Order—

Interpre-  
tation.

(a) "Botswana" means the territory that immediately before 30th September 1966 is comprised in the Bechuanaland Protectorate and, in relation to any period prior to the commencement of this Order, that Protectorate;

(b) "the general compensation scheme" means the Scheme of compensation for pensionable officers who are designated officers for the purpose of the Overseas Service (Bechuanaland) Agreement 1962 that was published by the Government of Bechuanaland on 22nd April 1966.

(2) The Interpretation Act 1889(b) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

3. The provisions contained in the Schedule to this Order shall have effect in relation to the public service of Botswana.

Application  
of Schedule.

4.—(1) Where any officer or authority has before the commencement of this Order in pursuance of any provision of the general compensation scheme given any permission or consent or prescribed any condition or

Transitional  
provisions

(a) 1890 c. 37.

(b) 1889 c. 63.



**D.40**

granted any benefit or made any payment or made any declaration or done any other thing for the purposes of that scheme, that permission, consent, condition, benefit, payment, declaration or other thing shall be deemed to have been given, prescribed, granted, made or done, as the case may be, under the corresponding provision of the Schedule to this Order, and the provisions of that Schedule shall have effect accordingly.

(2) Where any officer has before the commencement of this Order in pursuance of any provision in the general compensation scheme given any undertaking or given or received any notice or retired or received any benefit he shall, provided that any conditions prescribed or deemed to have been prescribed by or under the Schedule to this Order are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, or to have been granted or received that benefit, as the case may be, under the corresponding provision in that Schedule, and the provisions of that Schedule shall have effect accordingly.

(3) Any officer who has, before the commencement of this Order, been required under the provisions of the general compensation scheme, to retire to facilitate the localisation of the public service of Bechuanaland shall, for the purposes of the Schedule to this Order, be deemed to have retired under section 12 of the Botswana Independence Order 1966(a).

(4) The notice prescribed by the general compensation scheme to be given by officers who elect to retire from the public service shall be deemed to have been prescribed by the appropriate Service Commission under paragraph 4 of the Schedule to this Order; any declaration made by Her Majesty's Commissioner under the general compensation scheme as to whether an officer has been or is required to retire in the circumstances described in paragraph 5 of that Schedule shall be deemed to have been made by the appropriate Service Commission under that paragraph.

(5) Any conditions or notices prescribed by the appropriate Service Commission for the purpose of paragraph 3(1)(a), paragraph 4 or paragraph 9(2) of the Schedule to this Order shall be not less favourable to any officer than any conditions or notices prescribed by or for the purpose of the corresponding provision of the general compensation scheme.

Modified  
application.

5. If the Government of the United Kingdom and the Government of Botswana agree that, in their application to any officer, the foregoing provisions of this Order and the provisions of the Schedule thereto shall have effect subject to such modifications or exceptions as those Governments may agree, then those provisions shall have effect accordingly.

*W. G. Agnew.*

**SCHEDULE**

**COMPENSATION AND RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF BOTSWANA**

Interpre-  
tation.

1.—(1) In this Schedule, unless the context otherwise requires—  
“appropriate law” in relation to an officer in the public service means the law in force in Botswana that governs the grant of pensions,

(a) S.I. 1966/1171.

gratuities and other like benefits in respect of the service of that officer in the public service;

“ appropriate Service Commission ”

(a) in relation to an officer who can be removed from his office by the Judicial Service Commission, means that Commission; and

(b) in any other case means the Public Service Commission;

“ entitled officer ” means an officer in the public service who on the operative date has not attained the age of fifty-five years and who—

(a) was before the operative date appointed or selected for appointment to an office in the public service being a pensionable office for the purposes of the appropriate law;

(b) was on the operative date the substantive holder of an office that was at that date a pensionable office for the purposes of the appropriate law;

(c) is a designated officer for the purposes of the Overseas Service (Bechuanaland) Agreement 1962;

(d) has since the operative date been the substantive holder of an office service in which may during his tenure thereof be taken into account in computing his pension under the appropriate law; and

(e) has been confirmed in his appointment, where his appointment is subject to confirmation;

“ General Orders ” means the General Orders of the Government;

“ Government ” means the Government of Botswana;

“ operative date ” means 1st May 1966;

“ pensionable emoluments ” means emoluments that may be taken into account in computing the pension of an officer under the appropriate law;

“ pensionable service ” means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law;

“ public service ” means the public service of Botswana;

“ substantive holder ” in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) For the purposes of this Schedule—

(a) a person shall not be regarded as holding any office on the operative date if on that date he was on leave of absence pending his retirement otherwise than under this Schedule;

(b) a person whose office has been abolished and who retires in consequence of the abolition of his office shall be deemed to be the substantive holder of that office during the period between the date on which the office was abolished and the date of expiration of any leave of absence granted to him pending his retirement;

(c) when an officer on probation is required to retire—

(i) under section 12 of the Botswana Independence Order 1966;

**D.42**

- (ii) to facilitate the introduction of constitutional changes;
- (iii) in consequence of injury or ill-health;
- (iv) in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of that part of the public service to which he belongs by which greater economy or efficiency may be effected; or
- (v) on the grounds of age in accordance with the provisions of the appropriate law,

he shall be deemed to have been confirmed in his appointment immediately before the day upon which he was given notice requiring him to retire;

- (d) subject to the provisions of head (a) of this sub-paragraph, an officer who satisfies the conditions specified in heads (a), (b), (c) and (e) of the definition of "entitled officer" in sub-paragraph (1) of this paragraph, and who has, before the date of the commencement of this Order retired or died, shall be deemed to have become entitled to compensation under paragraph 2 of this Schedule and the provisions of this Schedule shall have effect in relation to such officer as if he were an entitled officer immediately before such retirement or death;

(3) For the purposes of calculating the compensation to which an officer is entitled under this Schedule, where the officer is seconded to the service of another government or authority on the date in relation to which the assessment is made he shall be deemed to have such annual pensionable emoluments on that date as he would have had on that date if he had not been so seconded but had continued until that date to hold the office in the public service that he was holding immediately before his secondment and had been granted all increments and other increases of salary for which he would thus have been eligible;

(4) Where an officer was on any date appointed or selected for appointment to an office in the public service upon transfer from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act 1892(a) and for any period thereafter was entitled to return to such pensionable employment he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceases to be entitled to return to such pensionable employment if on that date he was the holder of an office in the public service.

Entitlement  
to compen-  
sation.

**2.—**(1) Subject to the provisions of this Schedule, every entitled officer shall, at the operative date or, in the case of a person who becomes an entitled officer after that date, at the date on which he becomes an entitled officer, become entitled to compensation which shall be assessed in accordance with the provisions of this paragraph and at each assessment shall be calculated by multiplying the amount of his annual pensionable emoluments on the date in relation to which the assessment is made by the appropriate factor and the resulting amount, or twelve thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The compensation of each entitled officer under this paragraph shall, if it has not already been provisionally assessed, be provisionally

(a) 1892 c. 40.

assessed as soon as is reasonably practicable after the commencement of this Order or, in the case of a person who becomes an entitled officer after the commencement of this Order, as soon as is reasonably practicable after that person becomes an entitled officer, and for that purpose the date in relation to which the assessment is to be made shall be the operative date or, in the case of a person who becomes an entitled officer after the operative date, the date on which that person became an entitled officer.

(3) The compensation under this paragraph of each person who is serving as an entitled officer shall be provisionally re-assessed upon each anniversary of the date in relation to which his compensation was provisionally assessed and shall be finally assessed upon his retirement or death while still serving as an entitled officer, and for the purposes of this sub-paragraph the date in relation to which the assessment is to be made shall be such date (not being earlier than the date in relation to which his compensation was provisionally assessed or later than the date upon which his compensation is provisionally re-assessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.

(4) When the compensation of any entitled officer is provisionally assessed or re-assessed or is finally assessed, he (or, in the case of an officer who has died, his personal representative) shall thereupon be given a statement showing the amount of the compensation to which, in accordance with that provisional assessment or re-assessment or final assessment, he is entitled.

(5) In this paragraph "the appropriate factor" in relation to an officer means the factor obtained from Table I of the Annex to this Schedule that is appropriate to the age and pensionable service of that officer on the date in relation to which the assessment is to be made in completed years and months or, if it is more favourable to the officer, reckoned in completed years without regard to parts of a year.

3.—(1) When the compensation of an entitled officer has been provisionally assessed, a payment shall be made to that officer, which—

Payment of compensation.

(a) in the case of an entitled officer who has undertaken after the operative date, otherwise than in relation to his promotion in the public service, to serve as such upon such conditions and for such period as may be prescribed by the appropriate Service Commission, shall be an amount equal to the amount of the compensation or two thousand pounds, whichever is the less;

(b) in any other case, shall be an amount equal to the amount of the compensation as so assessed or, if that amount exceeds one thousand pounds, then one-sixth of the amount of compensation or one thousand pounds, whichever is the greater:

Provided that if an entitled officer gives such an undertaking after a payment has been made to him under this sub-paragraph, but not later than twelve months after the date in relation to which his compensation was provisionally assessed he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking and in any case within three months of that date, an amount which when added to the amount already paid to him equals the amount he would have been paid under this sub-paragraph if he had given that undertaking before any payment had been made to him under this sub-paragraph.

(2) Subject to the provisions of paragraph 12 of this Schedule, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 of this Schedule and who has not

#### D.44

already received the whole of that compensation (whether that person is serving as an entitled officer or has retired) upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) of that paragraph, which—

- (a) in the case of a payment made upon the first, second, third or fourth anniversary, shall be an amount equal to the appropriate fraction of the balance of compensation then outstanding; and
- (b) in the case of a payment made upon the fifth or any later anniversary, shall be an amount equal to the balance of compensation then outstanding:

Provided that—

- (i) where the balance of compensation outstanding upon the first, second, third or fourth anniversary exceeds five hundred pounds and, in the case of an officer to whom sub-paragraph (1)(a) of this paragraph applies, where that balance, if added to the amount of compensation already paid under this paragraph, would exceed two thousand pounds, an amount equal to the appropriate fraction of that balance or four hundred pounds, whichever is the greater, shall be paid;
  - (ii) where the balance so outstanding is less than five hundred pounds, or, in the case of an officer to whom sub-paragraph (1)(a) of this paragraph applies, where that balance exceeds five hundred pounds but would not, if added to the amount of compensation already paid under this paragraph, exceed two thousand pounds, an amount equal to that balance shall be paid.
- (3) In this section “the appropriate fraction”—
- (a) in relation to an assessment made upon the first anniversary, means one-fifth;
  - (b) in relation to an assessment made upon the second anniversary, means one-quarter;
  - (c) in relation to an assessment made upon the third anniversary, means one-third; and
  - (d) in relation to an assessment made upon the fourth anniversary, means one-half.

#### Retirement.

4.—(1) Subject to the provisions of this paragraph, an entitled officer may, after giving such notice as may be prescribed by the appropriate Service Commission, retire at any time.

(2) An entitled officer who has given notice of his intention to retire under this paragraph on any date may, with the consent of the appropriate Service Commission, withdraw the notice at any time before that date.

(3) No entitled officer shall retire under this paragraph without the permission of the appropriate Service Commission:

Provided that the Commission shall not withhold permission unless disciplinary proceedings are being taken, or are about to be taken, against the officer and those proceedings might lead to his dismissal.

(4) An entitled officer—

- (a) who is permitted to retire by reason of injury or ill health:

- (b) who is required to retire on or after his attainment of any age prescribed by law;
  - (c) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the part of the public service to which he belongs by which greater economy or efficiency may be effected;
  - (d) who is required to retire in the public interest;
  - (e) who is required to retire under section 12 of the Botswana Independence Order 1966; or,
  - (f) in the case of a woman officer, who is required to retire upon her marriage,
- shall be deemed to have retired under this paragraph.

(5) In the case of an entitled officer who retires under sub-paragraph (1) of this paragraph and—

- (a) who is on leave of absence after completing a tour of residential service—
  - (i) if he returns to Botswana for further duty at the requirement of the Government he shall be provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty, and when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;
  - (ii) if he returns to Botswana to settle his affairs and on his return completes a tour of residential service of not less than twelve months, he will be paid the cost of the passages for himself and his family and of transporting his baggage to Botswana (but not exceeding the cost of such passages and baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty) and provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;
  - (iii) if he does not return to Botswana, he shall be provided with such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;
- (b) who retires in any other circumstances, he shall be provided with such passages and baggage facilities for himself and his family as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service.

(6) In the case of the retirement of an entitled officer who is required to retire in the circumstances described in sub-paragraph (4)(c) or (e) of this paragraph (except in the case of an officer to whom paragraph 15 of this Schedule applies) and—

- (a) who is on leave of absence after completing a tour of residential service—

**D.46**

- (i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice under that section requiring him to retire is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months; and
  - (ii) he shall (if he returns to Botswana to settle his affairs) be provided with a passage to Botswana for his own use as if he were returning to Botswana for a further tour of residential service and such passage and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;
  - (iii) in the case of the retirement of an entitled officer in the circumstances described in sub-paragraph (4)(e) of this paragraph and who returns to Botswana to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period (but not exceeding twenty-one days) of his stay in Botswana.
- (b) who retires in any other circumstances—
- (i) he shall not be required to depart from Botswana on leave of absence pending his retirement until the expiration of a period of six months from the date upon which he was given notice requiring him to retire;
  - (ii) he shall be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;
  - (iii) he shall, if the period of leave on full pensionable emoluments for which he is eligible is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to six months.

Retirement  
on consti-  
tutional  
grounds.

5.—(1) This paragraph shall apply to any entitled officer who has been declared by the appropriate Service Commission to be an officer required to retire to facilitate the introduction of constitutional changes.

(2) An entitled officer to whom this paragraph applies who is required to retire and who, immediately before being so required, acted for a period of six months to the satisfaction of the appropriate Service Commission in a pensionable office, the pensionable emoluments of which were higher than those of the office of which he was the substantive holder, shall be deemed to be confirmed in the pensionable office in which he was acting.

(3) An entitled officer to whom this paragraph applies shall—

- (a) as soon as reasonably practicable be paid a disturbance grant equal to one quarter of his annual pensionable emoluments at his retirement; and
- (b) be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring

from the public service having attained an age of 55 years and having completed a final tour of residential service.

- (c) if the period of leave on full pensionable emoluments for which he is eligible is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of leave of absence pending his retirement up to six months.

6.—(1) Where an entitled officer dies and it is lawful under the provisions of the appropriate law for a gratuity to be granted to his personal representatives, there shall be granted to his personal representatives either that gratuity or a gratuity equal to the maximum gratuity that could have been granted to that officer under the provisions of paragraph 10 of this Schedule if he had retired under this Schedule at the date of his death, whichever is the greater:

Special gratuity on the death of certain officers.

Provided that, in the case of an officer to whom Part III of the Second Schedule to the Pensions (Consolidation) Law, 1965 of Botswana applied, in respect of that proportion of the pension for which he would have been eligible, if he had retired under this Schedule at the date of his death and which is attributable to his pensionable service otherwise than in the public service the provisions of paragraph 10(1)(c) of this Schedule shall not apply and the permitted fraction referred to in that paragraph shall not be less than three-quarters.

(2) For the purposes of the proviso to sub-paragraph (1) of this paragraph the proportion of a pension which is attributable to the pensionable service of an officer otherwise than in Botswana shall be that proportion of the pension for which the officer would have been eligible if his pensionable service had been wholly in Botswana as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in Botswana bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.

(3) The Financial Secretary to the Government, may direct that instead of being paid to the personal representatives, any gratuity payable under this paragraph shall be paid to one of the dependants of the deceased or to two or more of those dependants in such proportions as the Financial Secretary may think fit.

7.—(1) This paragraph applies to an entitled officer who has retired under this Schedule and—

Officers reappointed to U.K. service.

- (a) who was transferred to the public service from pensionable employment under the Government of the United Kingdom either in a public office as defined by the Superannuation Act 1892 or in employment pensionable under the Federated Superannuation System for Universities; and
- (b) who not later than twelve months after he retired has (other than as the result of a competition conducted by the Civil Service Commissioners of the United Kingdom) returned to such pensionable employment.

(2) A person to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but shall be entitled to compensation of an amount equal to—

- (a) one-half of the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule; or



**D.48**

(b) the amount he would receive if he were entitled to compensation under paragraph 8 of this Schedule, having been transferred to the pensionable employment referred to in sub-paragraph (1)(b) of this paragraph on the date on which he retired,  
whichever is the less.

(3) If the provisions of this paragraph become applicable to any person, his compensation shall forthwith be re-assessed, and—

(a) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under this Schedule before the re-assessment, in the manner prescribed by paragraph 3 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; or

(b) if the amount of compensation he has already received under this Schedule exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

Transfer to  
other public  
service.

8.—(1) This paragraph applies to an entitled officer who is transferred from the public service—

(a) to the service of a government or authority that is a Scheduled Government for the purposes of Part III of the Second Schedule to the Botswana Pensions (Consolidation) Laws, 1965 in circumstances in which he remains eligible for the grant of a pension under the appropriate law upon his eventual retirement;

(b) to service in the office of Governor in such circumstances that he is or may become eligible for a pension under the Governors' Pensions Act 1957(a):

Provided that—

(a) it does not apply to an officer to whom paragraph 7 of this Schedule applies;

(b) it applies to any officer—

(i) who but for the provisions of paragraph 1(4) of this Schedule, would be an entitled officer; and

(ii) who in the opinion of the appropriate Service Commission, would have had a reasonable prospect of becoming an entitled officer if no constitutional changes had been introduced; and

(iii) who unless prevented by circumstances beyond his control, serves for a period of not less than two years residential service beginning on the operative date; and

(iv) who returns to pensionable employment under the Government of the United Kingdom in a public office as defined in the Superannuation Act 1892.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but if the amount of his annual pensionable emoluments immediately before his transfer

exceeds the amount of the annual emoluments payable to him immediately after his transfer (being emoluments that may be taken into account for the purposes of his pension under the law or regulations relating to his service in that other public service) he shall be entitled to compensation equal to—

- (a) the amount of the excess multiplied by the appropriate factor;  
or
- (b) the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule, having retired on the date of his transfer,

whichever is the less.

(3) If the provisions of this paragraph become applicable to any person, his compensation shall forthwith be re-assessed, and—

- (a) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the re-assessment, in the manner prescribed by paragraph 3 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; or
- (b) if the amount of compensation which has already been received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

(4) In this paragraph “the appropriate factor” in relation to an officer means the factor obtained from Table II of the Annex to this Schedule that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

9.—(1) If an entitled officer who has given an undertaking for the purposes of paragraph 3(1)(a) of this Schedule ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death, his retirement in circumstances beyond his control or his transfer to other public service in the circumstances described in paragraph 8 of this Schedule, then the amount of compensation to which he would otherwise be entitled under paragraph 2 of this Schedule shall be reduced by an amount equal to one-half per centum for each month or part of a month during that period in which he has not served in accordance with the undertaking, or two hundred pounds, whichever is the less.

Penalties  
for breach  
of under-  
takings.

(2) If an entitled officer has been granted promotion in the public service after the operative date upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate Service Commission for any period ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death or his retirement in circumstances beyond his control, then the amount of compensation to which he is entitled under paragraph 2 of this Schedule shall be re-assessed and the amount of his compensation shall be determined as if his annual pensionable

emoluments in relation to the date of his promotion or any subsequent date were the amount of the pensionable emoluments which would have been used in accordance with Regulation 18 of the Second Schedule to the Pensions (Consolidation) Law, 1965 for the purpose of pension as if he had retired on that date.

(3) If any of the provisions of this paragraph become applicable to any entitled officer, his compensation shall be re-assessed accordingly and paid in accordance with paragraph 3 of this Schedule and if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under the re-assessment the excess shall forthwith become repayable.

Grant of  
pensions  
and  
gratuities.

10.—(1) Subject to the provisions of paragraphs 15 and 16 of this Schedule, an entitled officer, on his retirement under this Schedule, may be granted at his option (such option to be exercised in accordance with the provisions of Regulation 24 of the Second Schedule to the Pensions (Consolidation) Law, 1965) either—

- (a) a pension of such amount as may be granted under the appropriate law;
- (b) a reduced pension equal to such fraction as he may desire of the pension that may be granted under the appropriate law (not being, in the case of an officer who retires within twelve years of the operative date, less than the permitted fraction) together with a gratuity equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor;
- or
- (c) in the case of an officer who retires not less than twelve years after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor.

(2) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

- (a) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and
- (b) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(3) Where an officer retires by reason of injury or ill health in circumstances in which he could under the appropriate law be granted an additional pension the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law included references to that additional pension.

(4) Where an officer to whom this paragraph applies retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected in circumstances in which he could under the appropriate law be granted an additional pension, the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law did not include references to that additional pension.

(5) For the purposes of this paragraph the amount of the pension or gratuity that an officer who is required to retire in the circumstances described in paragraph 4(4)(c) or (e) or paragraph 5 of this Schedule or on the grounds of age before attaining the age of fifty-five years may be granted under the appropriate law shall be calculated by reference to the full annual pensionable emoluments enjoyed by him on the date immediately prior to his retirement.

(6) If an officer has not exercised the option conferred upon him by sub-paragraph (1) of this paragraph within the period in which it is required to be exercised he shall be deemed to have opted for the grant of a pension of such amount as may be granted under the appropriate law.

(7) In this paragraph—

“the appropriate factor” in relation to an officer means the factor obtained from Table III of the Annex to this Schedule that is appropriate to the age of that officer on the date immediately prior to his retirement reckoned in completed years and completed months;

“the permitted fraction”—

(a) in relation to an officer who retires within one year of the operative date, means three-quarters;

(b) in relation to an additional pension granted on account of injury under Regulation 23(1) of the Second Schedule to the Pensions (Consolidation) Law, 1965, means three-quarters; and

(c) subject to head (b) of this definition, in relation to an officer who retires within not less than one and not more than twelve years of the operative date, means such fraction as is obtained by subtracting one-sixteenth for each complete year of his pensionable service after the operative date from three-quarters;

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement, leave of absence granted in respect of service prior to the operative date the enjoyment of which had on the operative date been deferred shall not be taken into account.

11.—(1) Subject to the provisions of paragraphs 15 and 16 of this Schedule, where any entitled officer to whom Part III of the Second Schedule to the Pensions (Consolidation) Laws, 1965 of Botswana applies retires under this Schedule and is granted by any government or other authority that is a Scheduled Government for the purposes of that Part both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity that may be granted to him under paragraph 10 of this Schedule) a gratuity equal to the amount (if any) by which the amount produced by—

Special  
gratuity for  
certain  
officers.

(i) subtracting the annual amount of the pension granted to him by the Scheduled Government from the annual amount of the pension that would have been granted to him by that Government had he not elected to receive the gratuity granted to him by the Scheduled Government; and

(ii) multiplying the resulting amount by the appropriate factor, exceeds the amount of the gratuity granted to him by the Scheduled Government.

**D.52**

Special provisions as to payment of compensation.

(2) In this paragraph "the appropriate factor" has the same meaning as in paragraph 10 of this Schedule:

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement leave of absence granted in respect of service prior to the operative date the enjoyment of which had on the operative date been deferred shall not be taken into account.

**12.—(1) Whenever—**

(a) a person who has become entitled to compensation under paragraph 2 of this Schedule but who has not already received the whole of that compensation (and in the case of an entitled officer whether he is still serving as such or has already retired) attains the age of fifty-five years, or dies before attaining that age;

(b) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in the circumstances described in paragraph 4(4)(a), (c) or (d) of this Schedule before he has attained that age or is required to retire in the circumstances described in paragraph 4(4)(b) of this Schedule; or

(c) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule retires in any other circumstances before he has attained that age but on or after the fifth anniversary of the operative date or, in the case of a person who became an entitled officer after that date, of the date on which he became an entitled officer;

the balance then outstanding of the compensation to which he is entitled shall be paid to that person or, if that person is dead, to his personal representatives.

(2) Whenever an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire under section 12 of the Botswana Independence Order 1966 before attaining the age of fifty-five years, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—

(a) if notice requiring him to retire is given to him while he is engaged upon a tour of residential service, before his departure from Botswana; or

(b) if such notice is given to him while on leave of absence after completing a tour of residential service, as soon as reasonably practicable after the date upon which such notice is given to him.

(3) Whenever an officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire in the circumstances described in paragraph 5 of this Schedule, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him as soon as practicable after the date of the notice requiring him to retire.

(4) The Financial Secretary to the Government may direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or to two or more of those dependants in such proportions as the Financial Secretary may think fit.

(7) Whenever any payment of compensation becomes due under this Schedule interest at the rate of five per centum per annum shall accrue from day to day—

- (a) in cases where the compensation has not been finally assessed, during the period between the date on which the amount of the compensation was last due to be assessed and the date on which the next following assessment is to be made;
- (b) in cases where the compensation has been finally assessed, during the period between the date on which that payment of compensation became due and the date on which the next following payment of compensation will become due.

upon any part of the compensation that did not then become payable and that interest shall become payable at the end of the period during which it accrued:

Provided that, for the purpose of calculating interest under this sub-paragraph, the compensation to which an officer is entitled shall be deemed to have been provisionally assessed, and the first instalment thereof paid to the officer, on the operative date.

(6) When the compensation of an entitled officer is finally assessed under paragraph 2(3) of this Schedule upon his retirement, in addition to the interest payable under sub-paragraph (5) of this paragraph that officer shall be paid a sum equal to the interest that would, if the balance of compensation due to him on the date of his retirement had not been paid and provision had been made for interest at the rate of five per centum per annum to accrue from day to day on that balance, have accrued upon that balance during the period between the date of his retirement and the next anniversary of the operative date.

13.—(1) When disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and those proceedings might lead to his dismissal, the payment of compensation under this Schedule and interest thereon shall be withheld pending the determination of those proceedings.

Disciplinary  
proceedings  
and  
dismissal.

(2) Where any person who is serving as an entitled officer is dismissed, any compensation that he has not already received may, with the approval of the appropriate Service Commission, be withheld.

14. Any compensation, gratuity, disturbance grant or interest payable under this Schedule to an officer or to his personal representatives or dependants shall be paid, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries—

Place of  
payment  
and rate of  
exchange.

- (a) in the United Kingdom;
- (b) in Botswana;
- (c) in the country from which the officer was recruited or where he intends to reside;
- (d) in the case of payment to the personal representatives of an officer or his dependants, in the country in which the personal representatives or the dependants, as the case may be, reside; or
- (e) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the Financial Secretary to the Government, select.

#### D.54

in the currency of the country in which payment is to be made; and, where payment is to be made in a country other than Botswana, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation, gratuity, disturbance grant or interest as calculated at the official rate of exchange prevailing on the operative date.

Right to  
opt for  
abolition  
terms.

15.—(1) An entitled officer who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4 of this Schedule, or is required to retire in any of the circumstances described in paragraph 4(4) or paragraph 5 of this Schedule may at his option (such option to be exercised within three months of the commencement of this Order or, in the case of an officer who was not an entitled officer on the operative date, within three months of the date on which he became an entitled officer) become an officer to whom this paragraph applies.

(2) An officer to whom this paragraph applies shall not be entitled to compensation under this Schedule or be granted a pension, gratuity or disturbance grant under this Schedule but, subject to the provisions of paragraph 16 of this Schedule may, on his retirement under this Schedule, be granted such benefits as may be granted under the appropriate law to an officer whose office has been abolished.

(3) An officer to whom this paragraph applies shall repay the amount of any compensation that may have been paid to him.

Application  
of  
appropriate  
law.

16. The provisions of the appropriate law shall, subject to the provisions of this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law:

Provided that section 11 of the Botswana Pensions (Consolidation) Laws, 1965 or any law amending or replacing that section shall not apply in relation to any pension granted under the provisions of this Schedule.

Exemption  
from tax.

17. Any compensation, gratuity or disturbance grant payable under any of the provisions of this Schedule shall be exempt from tax under any law in force in Botswana relating to the taxation of incomes or imposing any other form of taxation.

Exercise of  
options.

18. Any option exercisable by any person for the purposes of this Schedule—

- (a) shall be irrevocable after the end of the period within which it is to be exercised;
- (b) shall be exercised by notice in writing to the appropriate Service Commission;
- (c) shall be deemed to have been exercised on the date on which the notice is received:

Provided that the appropriate Service Commission may, if it thinks fit, generally or in respect of a particular person and subject or not to conditions, extend the period for the exercise of an option.

## ANNEX

## INSTRUCTIONS FOR OBTAINING THE APPROPRIATE FACTOR FROM

TABLE I

- I. Read off from the table the factors for officer's age at his last birthday and his—
  - (a) completed years of service,
  - (b) completed years of service plus one year.
- II. Subtract I(a) from I(b), divide the difference by twelve and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.
- III. Add I(a) and II.
- IV. Repeat steps to III for the officer's age at his next birthday.
- V. Divide the difference between III and IV by twelve and multiply by the number of completed months of age, if any, since the officer's last birthday.
- VI. If IV is greater than III, add V to III.  
If IV is less than III subtract V from III.  
VI is the factor required.

## INSTRUCTIONS FOR OBTAINING THE APPROPRIATE FACTOR FROM

TABLE II OR III

- I. Read off from the Table the factors for the officer's age—
  - (a) at his last birthday;
  - (b) at his next birthday.
- II. Divide the difference between I(a) and I(b) by twelve and multiply by the number of completed months of age since the last birthday.
- III. If I(b) is greater than I(a), add II to I(a).  
If I(b) is less than I(a), subtract II from I(a).  
III is the factor required.

In calculating factors by interpolation in respect of Tables I to III the calculations should be rounded off to two decimal points and where this results in a difference of point nought one in either direction such difference should be ignored.



TABLE I  
THE SCHEDULE, PARAGRAPH 2  
*Compensation Factors*

[illegible]

TABLE II  
THE SCHEDULE, PARAGRAPH 8

AGE	FACTOR
30 and under	5·00
31 ...	5·08
32 ...	5·21
33 ...	5·47
34 ...	5·90
35 ...	6·56
36 ...	7·44
37 ...	8·10
38 ...	8·53
39 ...	8·79
40 ...	8·92
41 ...	9·00
42 ...	8·92
43 ...	8·77
44 ...	8·40
45 ...	7·61
46 ...	6·39
47 ...	5·60
48 ...	5·23
49 ...	5·08
50 and above	5·00

TABLE III  
THE SCHEDULE, PARAGRAPHS 10 and 11

AGE OF OFFICER	FACTOR	AGE OF OFFICER	FACTOR
25 and under	17·08	40	15·07
26	16·97	41	14·90
27	16·86	42	14·73
28	16·74	43	14·55
29	16·62	44	14·36
30	16·50	45	14·17
31	16·38	46	13·97
32	16·25	47	13·76
33	16·12	48	13·54
34	15·98	49	13·32
35	15·84	50	13·08
36	15·70	51	12·84
37	15·55	52	12·59
38	15·40	53 and above	12·50
39	15·24		

#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes provision for compensation and retiring benefits for certain officers in the public service of Botswana.

1. The following is a list of the names of the persons who have been appointed to the various positions in the organization of the American Red Cross, for the year 1917.

**Statutory Instrument No. 19 of 1966.****BOTSWANA INDEPENDENCE ORDER 1966****CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS) ORDER, 1967  
(NO. 9)**

(Published on 31st March, 1967)

In exercise of the powers vested in him by section 4 (3) (a) of the Botswana Independence Order 1966 His Excellency the President hereby makes the following Order —

**Title**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 9).

**Amendment of Cap. 80.**

2. The Moeng College Constitution Proclamation (Chapter 80) is amended in the sections listed in the first column of the Schedule by the deletion of the expression in the second column thereof wherever it appears and the substitution of the expression listed opposite thereto in the third column thereof.

**SCHEDULE**

(Section 2)

First Column (sections)	Second Column (deletions)	Third Column (substitutions)
2, 6, 7,	"the Territory"	"Botswana"
4, 6, 7, 8, 11 13, 14, 15, 17.	"Her Majesty's Commissioner"	"the Minister"
6, 13	"Bechuanaland Protectorate"	"Botswana"
6, 7	"Crown"	"State"
16	"Auditor of the Territory"	"Director of Audit".

H. MURRAY HUDSON  
Permanent Secretary.

Ministry of Labour and Social Services,  
GABERONES.  
31st March, 1967.

D.60

**Statutory Instrument No. 20 of 1967.**

**THE AUTHENTICATION OF DOCUMENTS LAW, 1964**

**DATE OF OPERATION**

In exercise of the powers vested in him by section 1 of the Authentication of Documents Law, 1964, His Excellency the President hereby appoints the 1st April, 1967, as the day on which the Authentication of Documents Law, 1964 shall come into operation.

P.J. HEADY,  
for Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
16th March, 1967.

**Statutory Instrument No. 21 of 1967.**

**CONSTITUTION OF BOTSWANA**

**THE PUBLIC SERVICE (GENERAL QUALIFICATIONS) REGULATIONS, 1967**

In exercise of the powers vested in him by section 109 of the Constitution, His Excellency the President hereby makes the following regulations —

**Title.**

1. These regulations may be cited as the Public Service (General Qualifications) Regulations, 1967.

**General Qualification for Appointment to the Public Service.**

2. When any office is vacant, the following persons shall, subject to any provisions determining the specific qualifications for particular public offices or classes thereof, be qualified for appointment to such office, in the following order of priority, that is to say —

- (a) any public officer who is a citizen of Botswana;
- (b) any other citizen of Botswana;
- (c) any public officer, whether on pensionable or contract terms, who is not a citizen of Botswana;
- (d) any other person who is not a citizen of Botswana but whose recruitment to such office is authorised in terms of regulation 3.

**Authorisation of Certain External Recruitment.**

3. The recruitment of any person to any office shall be deemed to be authorised for the purposes of regulation 2(d) if —

- (a) that person is a citizen of a country for the time being specified by the President as a country whose nationals may be recruited into the Public Service of Botswana; and

**D.61**

- (b) he is not a member of any class for the time being specified by the President as being debarred from recruitment to offices of any class which includes such office.

**Acting Appointments.**

4. The provisions of regulation 2 shall not apply in relation to acting appointments; and where it is desired to fill any vacant office by an acting appointment, then, subject to any provisions determining the specific qualifications for appointment to that office, any public officer shall be deemed to be qualified for such appointment;

Provided that so far as possible and subject to administrative convenience priority shall be given to citizens of Botswana.

**Revocation of Certain Regulations.**

5. Regulations 24, 25, 26 and 27 of the Public Service Commission (General) Regulations, 1965 (Legal Notice No. 41 of 1965) shall cease to have effect for the purpose of determining the qualifications and disqualifications for holding public office.

J.A. ALLISON,  
Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
22nd March, 1967.



**Statutory Instrument No.22 of 1967.**

**THE COMMISSIONERS OF OATHS PROCLAMATION**  
**AMENDMENT OF PART II OF THE SCHEDULE TO THE COMMISSIONERS OF OATHS**  
**PROCLAMATION**

(Published on 7th April, 1967)

In exercise of the powers vested in him by section 2 (2) of the Commissioners of Oaths Proclamation (Cap. 50) the Minister of Home Affairs hereby amends Part II of the Schedule to the aforesaid Proclamation by the addition of the following —

- |      |  |                        |
|------|--|------------------------|
| “17. | Immigration Control Officer  | The whole of Botswana  |
| 18.  | Higher Executive Officer in<br>the Immigration & Passport<br>Control Department. | The whole of Botswana” |

A.H. DONALD  
Permanent Secretary.

Ministry of Home Affairs,  
GABERONES.  
14th March, 1967.



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**Statutory Instrument No. 23 of 1967.**

THE ROAD TRAFFIC LAW, 1963  
**THE ROAD TRAFFIC REGULATIONS, 1967**

In exercise of the powers vested in him by section 105 of the Road Traffic Law, 1963 (No. 14 of 1963) His Excellency the President hereby makes the following regulations —

ARRANGEMENT OF SECTIONS

*Regulation*

**PART I**

**Preliminary**

1. Title and Commencement
2. Application
3. Interpretation

**PART II**

**Registration and Licensing of Motor Vehicles**

4. Forms to be Used in Connection With the Registration and Licensing of Motor Vehicles
5. Manner in Which Clearance Certificate to be Affixed to Motor Vehicle
6. Certificate of Roadworthiness
7. Fees for Certificates of Roadworthiness
8. Extension of Short-term Licence
9. Short Term Licence Where Vehicle Scrapped, Stolen, Etc.
10. Temporary Permits in Respect of Motor Vehicle
11. Special Permits Valid

**PART III**

**Dealers in Motor Vehicles**

12. Forms to be Used by Motor Vehicle Dealers
13. Numbers Assigned to Dealers
14. Manner in Which Motor Dealer's Clearance Certificate Shall be Displayed
15. Change in Partnership or Name of Company or Motor Dealer

**PART IV**

**Refunds**

16. Refund of Licence Fees in Respect of Motor Vehicles permanently Removed from Botswana

## **PART V**

### **Licensing of Driver of Motor Vehicles**

17. Substitution of Drivers' Licences
18. Forms Prescribed in Respect of Learners' Licences and Drivers' Licences
19. Where Requirements of Section 54 (3) (g) and (h) are dispensed with
20. Issue of Driver's Licence Free of Endorsements

## **PART VI**

### **Duplicate Drivers' Licences**

21. Duplicate Drivers' Licences
22. Duplicate of Documents Other Than Drivers' Licences

## **PART VII**

### **Specifications for Vehicles**

23. Overall Length, Width and Height of Vehicle
24. Turning Radius, Wheelbase, Tandem Axle, Spacing, Vehicle Over Hang, Combination of Vehicles, and Reverse Gears
25. Projections in Case of Vehicles Other Than Cycles
26. Projection in the case of Motor Pedal Cycles
27. Manufacturer's Plate and Marking on Certain Vehicles
28. Axle Weight
29. Loading of Vehicles
30. Enclosure of Vehicles Carrying Passengers
31. Load on Tyres
32. Tyres
33. Brakes
34. Steering-gear
35. Warning devices
36. Essential Arrangements and Fittings
37. Direction Indicators
38. Indicators in Relation to Width, Etc. of Vehicle
39. Indicators in Relation to Length of Vehicle
40. Placing of Indicators on Vehicles
41. Offence in Connexion With Indicators
42. Stoplight
43. Exhaust, Silencers and Exhaust Pipes
44. Entrances and Exits

## **PART VIII**

### **CHAPTER 1**

#### **Lights and Retro-Reflectors on Vehicles**

45. Lights and Retro-reflectors on Vehicles

## CHAPTER 2

### Lights

- 46. When Lights to be Shown
- 47. Headlamps on Motor Vehicles Other than Trailers and Motor Cycles
- 48. Headlamps on Motor Cycles
- 49. Clearance Lamp
- 50. Rear Lamps on Motor Vehicles
- 51. Registration Number-Plate Lamp
- 52. Projecting Loads
- 53. Additional Lights on Vehicles
- 54. Lights on Vehicles Other Than Motor Vehicles —  
     Animal-Drawn Vehicles ;  
     Pedal Cycles ;  
     All Other Vehicles
- 55. General Requirements for Lights

## CHAPTER 3

### Retro-Reflectors

- 56. Specification for Retro-Reflectors
- 57. White Retro-Reflectors to be Fitted on Front of Certain Vehicles
- 58. Red Retro-Reflectors to be Fitted on the Back of Certain Vehicles
- 59. Warning Sign on Back of Certain Motor Vehicles
- 60. Yellow Retro-Reflectors (Side Marker Lamps) to be Fitted to the Sides of Certain Vehicles
- 61. Projecting Loads
- 62. General
- 63. Back Retro-Reflectors on Vehicles with Abnormal Body Weight
- 64. Unlawful Use of Reflectors

## PART IX

### Public Motor Vehicles

- 65. Interpretation
- 66. Forms to be Used in Connection with Public Motor Vehicles
- 67. Requirements for All Public Motor Vehicles
- 68. Additional Requirements for Buses
- 69. Carrying Capacity of Public Motor Vehicles
- 70. Conditions Under Which Certificates of Fitness are Held.
- 71. Display of Notices Regarding Number of Passengers and Loads

## PART X

### Registration Marks and Numbers on Motor Vehicles

- 72. Number plates to be provided

## **D.68**

- 73. Colours of Number Plates
- 74. Dimensions of Letters, Figures and Spaces
- 75. Arrangements of Letters and Figures
- 76. Positions of Number-plates
- 77. Number-Plates on Vehicles Registered and Licensed in Prescribed Territories

## **PART XI**

### **General**

- 78. Hand Signals
- 79. Exemptions: Farm Implements
- 80. Exemptions: Road-making and Other Machinery
- 81. Exemption of Medical Practitioners From Certain Parking Requirements

## **PART XII**

### **Road Traffic Signs**

- 82. General classification of Road Traffic Signs .

## **SCHEDULES**

- 1. Motor Vehicle Application for New/Transfer of Licence.
- 2. Certificate of Registration.
- 3. Motor Vehicle Application for Renewal of Licence.
- 4. Certificate of Roadworthiness Second Hand Motor Vehicle.
- 5. Renewal Licence Receipt.
- 6. Motor Vehicle Application for Short-term Licence and Registration Certificate.
- 7. Short-term Clearance Certificate.
- 8. Advice of Change of Address of Owner of Motor Vehicle.
- 9. Certificate of Transfer of Ownership.
- 10. Registrar's Advice of Transfer of Ownership.
- 11. Application for Permit and Identification Cards
- 12. Temporary Permit to Use Motor Vehicle.
- 13. Identification Card.
- 14. Special Permit to Use Motor Vehicle.
- 15. Motor Vehicle Dealer's Application for Licence.
- 16. Motor Vehicle Dealer's Licence.
- 17. Dealer's Token.
- 18. Register/Return of Motor Vehicles Acquired and Disposed of.
- 19. Report to Police Re Motor Vehicle Showing Signs of Accident.
- 20. Application for Substitution of a Driver's Licence.
- 21. Application for Learner's Licence.
- 22. Learner's Licence/Permit.
- 23. Application for Certificate of Competence.
- 24. Driver's Licence.

25. Application for Duplicate Learner's or Driver's Licence.
26. Duplicate Driver's Licence.
27. Certificate of Fitness.
28. Application for Duplicate of Document or Token.
29. Certificate of issue of Document or Token.
30. Public Motor Vehicle Application for Certificate of Fitness.
31. Certificate of Fitness Public Motor Vehicle.

## PART I

### PRELIMINARY

#### **Title and Commencement.**

1. These regulations may be cited as the Road Traffic Regulations, 1967 and shall come into operation on a day to be appointed by the President by notice in the *Gazette*.

#### **Application.**

2. These regulations shall apply throughout Botswana including all townships except where otherwise specially provided.

#### **Interpretation.**

3. In these regulations unless the context otherwise requires —

“axle” means, in relation to a vehicle, a device or set of devices about which the wheels of such vehicle rotate which is or are so placed that, if the vehicle were to travel straight ahead, the vertical centre-lines of such wheels would lie in one vertical plane at right angles to the longitudinal centre-line of such vehicle;

“axle weight” in relation to a vehicle, whether laden or unladen, means the total weight transmitted to the roadway by all the wheels of an axle;

“emergency brake” means a braking system capable of stopping a vehicle or combination of vehicles at the will of the driver independently of the service brake;

“front end” means, in relation to a vehicle, either the permanent part of or fixture on that vehicle, whichever projects furthest forward;

“front overhang” means, in relation to a vehicle, that portion which projects in front of the centre-line of the front axle or foremost axle or front tandem axles;

“identification lamp” means a lamp fitted to the front of a vehicle to indicate the type of such vehicle;

“Law” means the Road Traffic Law, 1963 (No. 14 of 1963);

“Loading Zone” means an area adjacent to the kerb line reserved exclusively for use by vehicles while loading or unloading passengers or goods;

“load overhang” means that portion of the load on a vehicle which projects beyond the front end, rear end or sides of such vehicle;

“overall length” means, in relation to a vehicle, the distance between the front end and the rear end of the vehicle and, in relation to a combination of vehicles, the

## D.70

distance between the front end of the leading vehicle and the rear end of the rearmost vehicle ;

“overall width” means, in relation to a vehicle, the width measured between two planes parallel to the longitudinal centre-line of the vehicle and passing through the extreme projecting points on each side of such vehicle, exclusive of any side mirror or direction indicator ;

“parking brake” means a mechanical braking system which, when applied, is capable of keeping a vehicle stationary without human assistance ;

“rear end” means, in relation to a vehicle, either the permanent part of or fixture on that vehicle, whichever projects furthest to the rear ;

“rear overhang” means, in relation to a vehicle, that portion of a vehicle which projects to the rear of the centre-line of the rear axle or rearmost axle or rear tandem axles ;

“retro-reflector” means a device which reflects light back to the source of such light ;

“rural area” means any area not included in a township ;

“safety glass” means transparent glass or other material so constructed or treated that, when fractured, the possibility of large flying fragments or sharp splinters is minimised ;

“section” means a section of the Law ;

“school bus” means a bus used primarily for the conveyance of school children ;

“service brake” means a braking system capable of stopping a vehicle or combination of vehicles at the will of the driver and normally employed for that purpose ;

“side marker lamp” means a lamp fitted to the side of a vehicle which lamp, when in operation, emits light in a direction at right angles to the longitudinal centre-line of the vehicle ;

“tandem fixed axles” means tandem axles the wheels of which are held practically parallel to the longitudinal centre-line of the vehicle while the vehicle is turning to the left or right ;

“tandem steering axles” means tandem axles the wheels of which are capable of being deflected in such a manner as to cause the vehicle to be steered along the desired course ;

“traffic island” means any area in a roadway intended either to effect the physical separation and sorting of traffic or for the exclusive use of pedestrians, or both ;

“traffic lane” means any one of the parts into which a roadway has been divided by lane lines, each part being of a width sufficient for one moving line of vehicles ;

“turning radius” means the radius of the circle described by the outer steerable wheel of a vehicle when such wheel is deflected as far as possible from the straight either to the left or to the right and where the radii so obtained are not the same, the larger of the two shall be taken as the turning radius of the vehicle, the radius being measured to the outer edge of the track described by such outer steerable wheel ;

“wheel-base” means —

- (i) in relation to a semi-trailer, the distance, measured at ground level, between

## D.71

- parallel planes, at right angles to the longitudinal centre-line of the vehicle, passing through the centre-line of its king pin and the centre-line of its axle or, in the case of tandem axles, through a point midway between the two axles;
- (ii) in relation to a trailer, other than a semi-trailer, having only one axle or one set of tandem axles, the distance, measured at ground level, between parallel planes at right angles to the longitudinal centre-line of the vehicle, passing through the centre-line of the coupling pin, or knuckle, and the centre-line of the axle or, in the case of tandem axles, through a point midway between the two axles;
- (iii) in relation to any other vehicle, the distance, measured at ground level, between parallel planes, at right-angles to the longitudinal centre-line of the vehicle, passing through the centre-line of its front axle or, in the case of front tandem axles, through a point midway between the two axles and the centre-line of its rear axle or, in the case of rear tandem axles, through a point midway between the two axles.

## PART II

### REGISTRATION AND LICENSING OF MOTOR VEHICLES

#### **Forms to be Used in Connection With the Registration and Licensing of Motor Vehicles.**

4. The following forms which are set out in the Schedules are hereby prescribed for the purpose of the matters hereinafter respectively mentioned —

- (a) *Schedule 1* Application for the registration of a motor vehicle or for a new or transfer of licence (sections 16 (2), 19 (1), 36 (2), 37 (3)).
- (b) *Schedule 2* Certificate of Registration and Licence for Motor Vehicle (sections 18 (1), 21 (1), 24 (1)).
- (c) *Schedule 3* Application for renewal of licence for a motor vehicle (section 19 (4)).
- (d) *Schedule 4* Certificate of roadworthiness (section 20 (1)).
- (e) *Schedule 5* Renewal Licence Receipt (section 19).
- (f) *Schedule 6* Application for short-term licence and Registration Certificate (section 24 (1)).
- (g) *Schedule 7* Short-term clearance certificate (section 24 (2)).
- (h) *Schedule 8* Advice of change of address of owner of motor vehicle (section 34 (1)).
- (i) *Schedule 9* Certificate of transfer of ownership (sections 22 (2), 35 (2), 36 (1), 37 (1)).
- (j) *Schedule 10* Advice of one registrar to another of change of ownership of a motor vehicle (section 35 (2)).
- (k) *Schedule 11* Application for permit and identification cards (sections 39 (3), 39 (11)).
- (l) *Schedule 12* Temporary permit (section 43 (3)).
- (m) *Schedule 13* Identification cards (section 39 (3)).
- (n) *Schedule 14* Special permit (section 39 (11)).



## **D.72**

### **Manner in Which Clearance Certificate to be Affixed to Motor Vehicle.**

5. (1) The clearance certificate issued in respect of a motor vehicle shall —
- (a) if the motor vehicle is fitted with a transparent windscreen in front, be affixed in an upright position on the inside of the windscreen in such manner that the inscription on the certificate is clearly legible from the outside and that such certificate can be readily seen by a person standing in front or to the left of such vehicle; or
  - (b) if the motor vehicle is not fitted with transparent windscreen in front, be affixed in a conspicuous position on the left side of the vehicle in such manner that the inscription thereon is clearly legible from that side.
- (2) If a clearance certificate is affixed to a motor vehicle in a position where it would be exposed to weather conditions it shall be protected in a weather-proof holder with a durable transparent cover.

### **Certificate of Roadworthiness.**

6. An inspecting officer shall, in examining a vehicle for a certificate of roadworthiness, satisfy himself that it complies with all the relevant requirements of Parts VII and VIII.

### **Fees for Certificates of Roadworthiness.**

7. The fees prescribed for the examination of a motor vehicle for a certificate of roadworthiness and for the certificate of roadworthiness shall be paid to the registrar or inspecting officer concerned, who shall issue an official receipt therefor.

### **Extension of Short-term Licence.**

8. Where the owner of a motor vehicle wishes to extend the validity of a short-term licence issued for three months by a further three months as in section 24 (2) provided, he shall surrender to the registrar the short-term licence and disc and upon the payment of the prescribed fee obtain a fresh short-term licence and disc for the extended period.

### **Short Term Licence Where Vehicle Scrapped, Stolen etc.**

9. Upon payment by the owner of a motor vehicle of the licence fee or fees due in the circumstances mentioned in section 39 (1), the registrar shall issue a licence for the period concerned. No clearance certificate shall be issued.

### **Temporary Permits in Respect of Motor Vehicles.**

10. (1) Where a registrar supplies blank permits and blank identification cards to a dealer in terms of section 39 (8), he shall advise the dealer of the registration mark assigned to him.

- (2) Permits and identification cards issued by a registrar direct to the owner of a motor vehicle shall be filled in by such registrar. Where the issue is made by a dealer, such dealer shall fill in the permit and identification cards.

- (3) Where a dealer issues a temporary permit and identification card to the owner of a motor vehicle, he may claim payment from such owner of the appropriate fee prescribed in item 5 of Part III of the First Schedule to the Law.

(4) The size of the letters and the figures to be inserted in the identification cards shall be as indicated on such cards and the date of expiration of the permit shall be clearly inserted upon both the permit and identification cards in the spaces provided therefor.

(5) Every registrar shall keep a proper record of all permits issued by him in such form as will enable the names and addresses of the persons, including dealers, to whom issues of temporary permits and identification cards were made by such registrar, to be traced.

**Special Permits Valid.**

11. The provisions of regulation 10 (2) and (4) shall apply, *mutatis mutandis*, to the issue of a special permit and identification cards.

**PART III**

**DEALERS IN MOTOR VEHICLES**

**Forms to be Used by Motor Vehicle Dealers.**

12. The following forms which are set out in the Schedules are hereby prescribed for the purpose of the matters hereinafter respectively mentioned —

- (a) *Schedule 15.* Application for motor vehicle dealer's licence (section 43 (1)).
- (b) *Schedule 16.* Motor vehicle dealer's licence (section 44 (1)).
- (c) *Schedule 17.* Motor vehicle dealer's licence clearance certificate (section 45 (1)).
- (d) *Schedule 18.* Register/Return of motor vehicles acquired and disposed of by a dealer (section 45 (1)).
- (e) *Schedule 19.* Report of a dealer on vehicles involved in an accident or collision (section 48 (2)).

**Numbers Assigned to Dealers.**

13. (1) The number or numbers assigned to a dealer shall be in a series of not less than three figures, commencing with 001, the ninth number being 009, the tenth number being 010, the ninety-ninth 099, and thereafter 100 upwards. Upon the issue of a dealer's licence two separate series shall be used, the one in respect of motor vehicles other than motor cycles and the other in respect of motor cycles.

(2) In each year subsequent to the first licence the same number or series of numbers shall as far as possible be assigned to the same dealer upon his application for the renewal of his motor vehicle dealer's licence.

(3) The materials, form and colours of which a motor vehicle dealer's number plates shall conform shall be as provided in Part X.

**Manner in Which Motor Dealer's Clearance Certificate Shall be Displayed.**

14. A motor dealer's clearance certificate shall be displayed on the appropriate registration plate under the authority of a motor vehicle dealer's licence and shall be protected in a weather-proof holder with a durable transparent cover.

#### **D.74**

#### **Change in Partnership or Name of Company of Motor Dealer .**

15. Upon any change in the partnership or in the name of any company in respect of which a motor vehicle dealer's licence is in operation, such new partnership or company shall, within twenty-one days of such change, advise the registrar accordingly and apply for and obtain from him a transfer motor vehicle dealer's licence free of charge.

### **PART IV**

#### **REFUNDS**

#### **Refund of Licence Fees in respect of Motor Vehicles permanently removed from Botswana.**

16. (1) No refund referred to in section 32(2) shall be granted unless the applicant for such refund shall have first produced and surrendered to the registrar the registration certificate, current licence and clearance certificate in respect of the vehicle removed or to be removed from Botswana.

(2) In the case of any application for a refund as mentioned in sub-regulation (1), the registrar may require the applicant to produce evidence of payment of his shipping or rail fares and the freight charges in respect of the motor vehicle to the country into which such applicant has permanently changed or intends permanently to change his residence and has removed or intends to remove the motor vehicle, or such other evidence as, in accordance with the manner in which the applicant intends to leave Botswana, may reasonably be required as proof of such applicant's intention to leave Botswana in the circumstances stated in section 35(2).

### **PART V**

#### **LICENSING OF DRIVER OF MOTOR VEHICLES**

#### **Substitution of Drivers' Licences .**

17. The holder of a driver's licence who wishes to substitute such licence as in section 58(2) provided, or who wishes to obtain a driver's licence in terms of sub-section (3) of that section, shall make application therefor as in Schedule 20 prescribed.

#### **Forms Prescribed in Respect of Learners' Licences and Drivers' Licences.**

18. The following forms, to be used in connection with the issue of a learner's licence and a driver's licence are hereby prescribed and are set forth in the Schedules —

- (a) *Schedule 21.* Application for Learner's Licence (section 53 (1)).
- (b) *Schedule 22.* Learner's Licence (section 53 (4)).
- (c) *Schedule 23.* Application for a Certificate of Competence (section 54 (1)).
- (d) *Schedule 24.* Driver's Licence (section 56 (3)).

#### **Where Requirements of Section 54 (3) (g) and (h) are dispensed with.**

19. In the event of the examiner dispensing with the requirements of section 54 (3) (g) and (h), as in section 58 (4) provided, he shall endorse on the application form the words "Driving test dispensed with in terms of section *fifty-eight*" and briefly record on the application form the essential particulars of the licence on the strength of which the test

## **D.75**

was so dispensed with. Such particulars shall include the number, date and place of issue, type of motor vehicle authorised to be driven and date of expiry, if any, and the examiner shall thereupon comply in all respects with the provisions of section 54 (4).

### **Issue of Driver's Licence Free of Endorsements.**

20. Application for a driver's licence free of endorsement in terms of section 102 (7) shall be made as in Schedule 20 prescribed, and the registrar shall issue to the applicant a new licence to drive a motor vehicle of the class to which the surrendered licence related.

## **PART VI**

### **DUPLICATE DRIVER'S LICENCES**

#### **Duplicate Driver's Licences.**

21. (1) Any person requiring a duplicate driver's licence in terms of section 13 shall as in Schedule 25 prescribed apply to the registrar of the area in which such licence was issued.

(2) Such application shall be accompanied by two copies of a photograph of the applicant, which conforms to the requirements of section 53 (1) (a).

(3) The registrar shall thereupon, on payment by the applicant of the appropriate fee prescribed in item (2) of Part III of the First Schedule to the Law issue to him a duplicate licence as in Schedule 26 prescribed and in the manner provided for the issue of licences.

(4) If the application is made by post, the applicant shall append a specimen signature in the space provided on the form. The applicant shall append his signature to the duplicate licence immediately upon his receipt thereof.

#### **Duplicate of Documents Other Than Drivers' Licences.**

22. (1) Whenever any person requires a duplicate of any certificate, licence or other document or token, other than a driver's licence he shall make application therefor as in Schedule 28 prescribed.

(2) In lieu of the issue of any such duplicate, the registrar may issue a certificate as in Schedule 29 prescribed.

## **PART VII**

### **SPECIFICATIONS FOR VEHICLES**

#### **Overall Length, Width and Height of Vehicle.**

23. No person shall operate upon a public road any vehicle —

(a) the overall length of which in the case of —

(i) an articulated vehicle exceeds forty-six feet ;

(ii) a trailer which is attached to the drawing vehicle in such a manner that the

## D.76

combination of the trailer and drawing vehicle cannot bend in a horizontal plane, exceeds six feet :

Provided that the combined length of such trailer and rear overhang of the drawing vehicle shall not exceed ten feet three inches ;

- (iii) a trailer (excluding a semi-trailer) having only one axle or one set of tandem axles, exceeds twenty-six feet, excluding any drawbar or coupling ;
- (iv) a trailer (excluding a semi-trailer) having only two axles (not tandem axles) exceeds thirty-three feet, excluding any drawbar or coupling ;
- (v) a semi-trailer, exceeds thirty-six feet ;
- (vi) any goods-carrying vehicle with two axles, exceeds thirty-three feet and for the purpose of this paragraph the term "goods-carrying vehicle" shall mean any vehicle, other than a trailer, designed for the conveyance of goods and in or on which no provision has been made for the conveyance of passengers except in the driver's cab of such vehicle ;
- (vii) any passenger-carrying vehicle, that is to say a vehicle which is not a goods-carrying vehicle as defined in paragraph (vi), with two axles, exceeds thirty-six feet ;
- (viii) any vehicle with three or more axles, exceeds thirty-six feet ;
- (ix) any combination of vehicles with one trailer, exceeds fifty-nine feet ;
- (x) any combination of vehicles, exceeds seventy-two feet ;
- (b) the overall width of which exceeds eight feet two and one-half inches ;
- (c) the overall height of which, whether laden or unladen, measured from the plane on which such vehicle stands to the highest projecting points, excluding any overhead electric power contracting-gear or catwalk, exceeds fifteen feet in the case of a double-deck bus or twelve feet six inches in the case of any other vehicle.

### **Turning Radius, Wheelbase, Tandem Axle, Spacing, Vehicle Over Hang, Combination of Vehicles, and Reverse Gears.**

24. (1) No person shall operate upon a public road any vehicle —
- (a) the turning radius of which exceeds forty-three feet ; or
  - (b) the wheelbase of which in the case of —
    - (i) a semi-trailer, exceeds twenty-eight feet ; and
    - (ii) any other vehicle, exceeds twenty six feet ; or
  - (c) the maximum distance between the centre-line of the first and last axle of a set of tandem fixed axles exceeds five feet ; or
  - (d) the rear overhang of which in the case of —
    - (i) a bus or a vehicle used for street cleaning purposes exceeds seven-tenths of its wheelbase ;
    - (ii) a trailer, not being a semi-trailer, having one axle or one set of tandem axles, exceeds one-half of the body of such trailer ; and

- (iii) any other vehicle, exceeds one-half its wheelbase ;
- (e) the front overhang of which —
  - (i) except in the case of a semi-trailer or a trailer having only one axle or one set of tandem axles, is such that any portion thereof describes a circle more than three feet six inches in excess of the turning radius when the wheels are deflected as far as possible from the straight :

Provided that this excess may be increased to four feet six inches if the front surface of the back rest of the driver's seat at seat level in the rearmost position, if adjustable, is not more than five feet six inches from the front end of the vehicle ; or
  - (ii) in the case of a semi-trailer exceeds four feet measured from the centre-line of the kingpin to the front end of the semi-trailer ;
- (f) which, in the case of a motor vehicle other than a motor cycle if the tare weight thereof exceeds twelve hundred and fifty pounds (1,250 lbs), cannot be so worked that it may be driven both backwards and forwards.

(2) No person shall operate upon a public road any combination of motor vehicles other than (a) a drawing vehicle and one or two trailers, one of which may be a semi-trailer, or (b) a motor vehicle drawing one other motor vehicle not being a trailer.

(3) No person shall operate upon a public road any motor car in combination with one or more trailers if the gross weight of such trailer or trailers exceeds the limits laid down in regulation 33 (1) (c).

(4) No person shall operate upon a public road any motor cycle and side-car unless such side-car is attached to the left or near-side only of the motor cycle and in such manner that the centre-line of the axle of the side-car is within the wheelbase of the motor cycle.

**Projections in Case of Vehicles Other Than Cycles.**

25. (1) Subject to the provisions of regulation 26 no person shall operate upon a public road any vehicle carrying any goods, brackets, fitting or thing which —

- (a) excluding any side mirror or direction indicator, projects more than four feet one and one-quarter inches to either side of the longitudinal centre-line of such vehicle :

Provided that a bracket shall not, in any circumstances, project more than six inches beyond the lateral extremities of the vehicle ;

- (b) projects more than twelve inches beyond the front end of the vehicle ; provided, however, that the front overhang, together with any such projection, shall not exceed the front overhang for the vehicle as specified in regulation 24 (1) (e) ;
- (c) projects more than six feet beyond the rear end of the vehicle :

Provided that the combined length of any combination of vehicles and any load, fitting or thing carried thereon shall not exceed seventy-two feet ;

- (d) is carried in such a manner as to come into contact with the surface of the public road on which the vehicle is operating except that a chain, commonly known as a "static chain" may be carried in contact with the surface of such road ;

#### **D.78**

- (e) is carried or arranged in such manner as to obscure the driver's view of traffic to his front or on either side or to obscure the driver's view in the rearview mirror of traffic to the rear ; and
  - (f) is not at all times either safely contained within the body of the vehicle or else securely fastened to the vehicle.
- (2) No person shall during the hours when lights are not required to be shown operate any vehicle upon a public road —
- (a) if the load on such vehicle projects more than twelve inches beyond the rear end thereof unless there is displayed at the rearmost portion of such load, so that the overall width of such load is clearly indicated, a flag or flags of bright red cloth, not less than twelve inches square, suspended transversely to the direction of travel of the vehicle ;
  - (b) if the load on such vehicle projects more than six inches to the side thereof unless the extent of such projection is indicated by means of flags of bright red cloth, not less than twelve inches square suspended from the back and front of such projection.

#### **Projection in the case of Motor or Pedal Cycles.**

26. No person shall operate upon a public road any motor cycle with or without a side-car, pedal cycle or motor tricycle if any goods or any other thing carried thereon, or any portion of such motor cycle or side-car, or both, or pedal cycle, projects to the front more than two feet beyond the axle of the front wheel or more than three feet to the rear of the axle of the back wheel of such motor cycle or pedal cycle or more than eighteen inches on either side of the wheels of such motor cycle or pedal cycle but excluding any side mirror or crash-bar, or twelve inches to the outside of the wheel of any side-car.

#### **Manufacturer's Plate and Markings on Certain Vehicles.**

27. (1) No person shall operate upon a public road any goods or passenger-carrying motor vehicle, other than a motor car, motor cycle or motor-tricycle, unless —

- (a) it has attached to the vehicle in a readily accessible position a plate specifying the individual axle weight limitations and the gross vehicle weight, both as specified by the manufacturer :

Provided, however, that the provisions of this paragraph shall apply to only those vehicles the date of manufacture of which, as specified on the licence issued in respect thereof in terms of the Law, is later than 1966.

- (b) it has painted or otherwise plainly marked on the outside of the vehicle on the left side thereof the tare weight and gross vehicle weight, markings shall at all times be maintained in a distinctly visible and legible condition.

(2) The owner of a motor vehicle upon which is displayed any false or misleading information shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

**Axle Weight.**

28. (1) No person shall operate upon a public road any vehicle with pneumatic tyres, if —

- (a) (i) the axle weight of such vehicle when laden or unladen exceeds seventeen thousand pounds; and
- (ii) the sum of all axle weights transmitted to the roadway by any group of consecutive axles of the vehicle or combination of vehicles exceeds that specified in the following table. A group of consecutive axles shall be any combination of consecutive axles of any vehicle or combination of vehicles:

Provided, however, that where axles are not spaced exact feet apart, the actual distance may be taken from centre of the last axle of the group of consecutive axles considered and the maximum weight permitted on all axles of the group determined by direct proportion from the table;

*Distance in feet between the centres of the extreme axles of any group of consecutive axles*      *Maximum weight permitted on all axles of the group.*

	<i>lbs</i>
0	18,000
1	18,200
2	18,700
3	19,500
3 11/12	20,900
4 to 7	32,000
8	36,000
9	36,400
10	37,000
11	37,900
12	39,400
13	42,500
14	43,400
15	44,300
16	45,200
17	46,100
18	47,000
19	47,900
20	48,800
21	49,700
22	50,600
23	51,500
24	52,400
25	55,700
26	56,600
27	57,500
28	58,400
29	59,300
30	60,200



**D.80**

*Distance in feet between the centres of the  
extreme axles of any group of consecutive  
axles*      *Maximum weight permitted on all axles of  
the group.*

31	61,100
32	62,000
33	62,900
34	63,800
35	64,700
36	65,600
37	66,500
38	67,400
39	68,300
40	69,200
41	70,100
42	71,000
43	71,900
44	72,800
45	73,700
46	74,600
47	75,500
48	76,400
49	77,300
50	78,200
51	79,100
52	80,000
More than 52	80,000

- (iii) more than fifty five per cent of the axle weight is carried by one half of the wheels of the axle concerned or if the weight transmitted to the road way by one half of the wheels of an axle exceeds 9,500 pounds, whichever is the lesser;
- (b) in the case of —
- (i) an articulated vehicle, the axle weight of any steering axle is less than eleven per cent (11%) of the sum of all axle weight of such vehicle; or
- (ii) any other vehicle, the axle weight of any steering axle is less than twenty per cent (20%) of the sum of the axle weights of the vehicle, provided that in the case of a vehicle with tandem steering axles the axle weight of any steering axle shall not be less than fifteen per cent (15%) of the sum of the axle weights of the vehicle.
- (2) No person shall operate upon a public road a vehicle fitted —
- (a) with metal tyres if any axle weight of such vehicle exceeds six thousand pounds;  
or
- (b) with tyres other than pneumatic or metal tyres if any axle weight or the sum of the axle weights of such vehicle exceeds half that permitted for vehicles fitted with pneumatic tyres in terms of sub-regulation (1) and if the axle weight of any steering axle of such vehicle does not comply with the requirements of sub-regulation (1) (b).

(3) The weight transmitted to the road surface by any axle on a vehicle shall be determined by weighing that axle on a weighbridge, for which purpose such axle may be placed anywhere on the platform of a weighbridge. Unless the contrary is proved, the weight so determined shall be deemed to be weight transmitted to the road surface by the axle concerned and the sum of the weights transmitted to the road surface by all axles on a vehicle shall be deemed to be the weight of the vehicle, laden or unladen, as the case may be.

#### **Loading of Vehicles.**

29. (1) No person shall operate upon a public road any vehicle the gross vehicle weight or the manufacturer's axle weight limitation of which is exceeded.

(2) In establishing the load which may be carried on any vehicle carrying passengers —

- (a) in the case of any vehicle, other than a school bus, the weight per passenger, including the driver and conductor (if any) and inclusive of the personal effects of such passengers, shall be taken as one hundred and forty pounds; and
- (b) in the case of a school bus, the weight per person, inclusive of the driver, and including the personal effects of the school children and of the driver, shall be taken as one hundred pounds.

(3) Notwithstanding the provisions of sub-regulation (1) and (2) no person shall operate upon a public road any vehicle other than a bus, a school bus, a motor cycle, motor tricycle or a pedal cycle if —

- (a) the number of passengers on any seat of such vehicle exceeds the number of passengers for whom seating accommodation is provided on such seat at the rate of fifteen inches per passenger measured along the rear length of such seat at seat level; or
- (b) the total number of passengers carried on such vehicle exceeds the number of passengers for whom seating accommodation is provided on all seats in such vehicle, in terms of paragraph (a), except that —

one child under the age of six years may be carried on each transverse row of seats in excess of the number of passengers for whom seating accommodation is provided on such row of seats in terms of paragraph (a).

(4) In establishing the number of passengers actually carried on any vehicle, except in the case of a bus, school bus, a motor cycle, motor tricycle or a pedal cycle —

- (a) any child under the age of three shall not be counted;
- (b) two children three years and over but under six years shall count as one passenger; and
- (c) three children six years and over but under thirteen years shall count as two passengers.

#### **Enclosure of Vehicles Carrying Passengers.**

30. No person shall operate upon a public road a good-carrying motor vehicle conveying passengers unless that portion of the vehicle in which such passengers are being conveyed is enclosed with material of sufficient strength to prevent any passenger from falling from such vehicle when in motion, to a height of —

## **D.82**

- (a) at least eighteen inches above the level of the floor if all such passengers are seated on such floor ; or
- (b) at least three feet above the level of the floor if any such passenger is seated on a seat or is standing :

Provided that this regulation shall not apply in the case of employees being conveyed in the course of their employment.

### **Load on Tyres.**

31. (1) No person shall operate upon a public road any vehicle, the gross vehicle weight of which exceeds 7,700 lbs and which is fitted with pneumatic tyres, if the weight carried by any tyre is in excess of that recommended by the South African Tyre Manufacturers' Conference or the Bureau des Normes de L'Automobile of France from time to time.

(2) No person shall operate upon a public road any vehicle fitted with tyres other than pneumatic tyres if the weight on any one tyre exceeds a weight of four hundred and fifty pounds per inch width of such tyre.

### **Tyres.**

32. (1) No person shall operate upon a public road —

- (a) any motor vehicle, other than a tractor or a trailer, fitted with metal tyres ;
- (b) any tractor or trailer fitted with metal tyres less than five inches in width ;
- (c) any animal-drawn vehicle fitted with metal tyres less than one and a half inches in width ;
- (d) any vehicle fitted with metal tyres unless such tyre is so fitted and adjusted that the whole of the width of the turning surface of such tyre would at all times be in direct contact with a flat surface if the vehicle were moved in such a surface so as to allow the wheels to roll ;
- (e) any motor vehicle fitted with any tyre which is in a state of disrepair or in such a condition as to cause or to be likely to cause damage to the road surface or danger to persons on or in the motor vehicle or to other persons using the public road ;
- (f) any motor vehicle fitted with pneumatic tyres the rubber of which is so worn or damaged as to expose the fabric or cord used in the construction of such tyre ; or
- (g) any motor vehicle of which any tyre is so constructed and fitted that the metal part of the wheel to which such tyre is fitted comes into contact with the road surface ;
- (h) any motor vehicle fitted with crawler tracks or with cleated or spiked wheels unless such tracks or wheels are suitably shod with street plates or other protecting material as shall ensure that no damage to the surface of any public road will be caused.

### **Brakes.**

33. (1) No person shall operate upon a public road —

- (a) any motor vehicle, other than a trailer, motor cycle with or without side-car, or a

**D.83**

light motor cycle, which is not equipped with a service brake, an emergency brake and a parking brake to control the movement of and to stop and hold such motor vehicle :

Provided that the emergency brake and the parking brake may be one and the same brake :

Further provided that, except in the case of a tractor —

- (i) such motor vehicle shall be equipped with at least two separate means of operating the brakes and each such separate means shall be capable of being operated independently of the other and of applying the brakes to at least two wheels of such motor vehicle ;
  - (ii) if the two separate means of operating the brakes referred to in sub-paragraph (i) are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels ;
  - (iii) one of such means of operating the brakes shall consist of a mechanical connection from the operating lever to the brake shoes or bands and be capable of holding the motor vehicle stationary without human intervention, with the engine disengaged, under any condition of loading on any up or down grade upon which it is operated ;
  - (iv) the brake shoes operating within or upon the drums of the wheels of such motor vehicle may be used for both means of operating the brakes hereinbefore referred to ;
  - (v) if the engine of a steam-driven motor vehicle, or the motor of an electrically driven motor vehicle, is capable of being reversed, the reversing mechanism shall be deemed to be equivalent to a brake, in which case the provisions of sub-paragraph (iii) shall not apply ;
- (b) any motor cycle, which is not equipped with two independent braking systems, one of which shall act on the front wheel and the other of which shall act on the rear wheel of the motor cycle, and each such system shall be of an efficiency at least equivalent to that specified for an emergency brake, and with the two systems applied at the same time, the combined efficiency shall be at least equivalent to that specified for a service brake ;
- (c) any trailer or combination of trailers, the gross vehicle weight of which —
- (i) does not exceed 1,250 lbs. and does not exceed half of the tare weight of the towing vehicle, unless such trailer or each trailer of such combination of trailers is equipped with at least a parking brake or other similar device for keeping the vehicle or vehicles stationary ;
  - (ii) (A) does not exceed 1,250 lbs. and exceeds half but does not exceed three-quarters of the tare weight of the towing vehicle ; or
  - (B) exceeds 1,250 lbs. but does not exceed 3,000 lbs. and does not exceed three-quarters of the tare weight of the towing vehicle ;
- unless such trailer or each trailer or such combination of trailers is equipped with a parking brake and either an automatic brake also known as an "overrun" brake, or a service brake ;

#### **D.88**

- (i) incorporate a lamp which, when in operation, shall emit a red yellow or amber light to the rear and of such intensity that it is clearly visible in normal sunlight at a distance of not less than one hundred feet;
- (ii) the indicator shall be at least six inches long, one inch wide and arrow-shaped; and
- (iii) be fitted to the rear of the vehicle;

(2) Nothing hereinbefore contained shall prohibit the fitting of two indicators of one of the types referred to in the preceeding regulations of the front half of a vehicle and two indicators of another type referred to in the said regulations of the rear half of such vehicle.

#### **Indicators in Relation to Width Etc., of Vehicle.**

38. No person shall operate upon a public road any motor vehicle, not being a motor vehicle referred to in regulation 37 if the driver thereof, when in the driving position cannot extend his right arm to project at least twelve inches beyond the righthand side of the widest part of the vehicle or the load thereon, whichever is the wider, unless such vehicle is fitted on both sides with direction indicators of any of the types referred to in regulation 37 and otherwise complying with the provisions thereof;

Provided that the indicator shall, if of the illuminated movable arm type when in use project at least six inches but not more than fifteen inches beyond the widest part of the vehicle or the load thereon, whichever is the wider.

#### **Indicators in Relation to Length of Vehicle.**

39. (1) No person shall operate upon a public road any motor vehicle or combination of motor vehicles of an overall length in excess of twenty-five feet unless it is equipped on both sides on the front half and the rear half and the rear half with direction indicators of any of the types referred to in regulation 37 and otherwise complying with the provisions thereof.

(2) The direction indicator on the rear half referred to in sub-regulation (1) shall, unless they be indicators of the type referred to in regulation 37 (c), be ---

- (a) within twenty-four inches of the rear end of the vehicle; or
- (b) in the case of a combination of motor vehicles, within twenty-four inches of the rear end of the last vehicle of such combination.

#### **Placing of Indicators on Vehicles.**

40. (1) Direction indicators shall be fitted at a height of not less than eighteen inches and not more than seven feet above ground level and shall be unobscured when in use.

(2) Where lamps are incorporated in direction indicators, the lamps showing to the rear shall be located on the same level.

(3) Unless the direction indicators are so fitted that they are visible to the driver of the vehicle to which they are fitted directly or by reflection when he is in the driving position, a device shall be provided whereby he shall be given visible or audible warning when the indicators are in operation.

(4) The direction indicators shall be so fitted that the indicators on one side cannot be operated simultaneously with those on the other side.

(5) Where more than one direction indicator is fitted to indicate any one turning movement, all such indicators shall be interconnected so as to operate simultaneously.

(6) Direction indicators shall be maintained in good working order.

(7) All lamps of direction indicators shall, when in use, emit diffused light.

#### **Offences in Connection with Indicators.**

41. The driver of a motor vehicle upon a public road shall not make use of any direction indicators not complying with the provisions of regulations 37 to 40 inclusive :

Provided that the driver of a tractor which is used by the owner solely in connection with any farming or lumbering followed by him, shall, if such tractor is not fitted with direction indicators as prescribed, in terms of regulation 46, indicate his intention of change of direction by extending an indicator of the unilluminated movable arm type at least twelve inches beyond the widest part of such tractor or the load thereon whichever is the wider; the width of the arm of such indicator shall be not less than one inch and a disc with a diameter of four inches shall be mounted on the outer end of the arm. The front and back surfaces of the indicator shall be white with a red strip extending centrally throughout the full length of the indicator.

#### **Stoplight.**

42. No person shall operate upon a public road any motor vehicle or combination of motor vehicles unless there is fitted to such vehicle or combination of vehicles at least one lamp, commonly known as a stoplight which lamp shall —

- (a) be fitted to the back of the vehicle so as to be visible from the rear; in the case of a combination of vehicles a stoplight shall be fitted to the back of the last vehicle in such combination so as to be visible from the rear :

Provided, however, that where such stoplight cannot conveniently be fitted to the back, it may be fitted at a distance not exceeding twenty-four inches towards the front of the rear and in such a position that it is readily visible from the rear; and

- (b) be fitted at a height of not less than twelve inches nor more than six feet above ground level; and
- (c) be placed to the right of or on the longitudinal centre-line of the vehicle to which it is fitted; where such lamp is duplicated, the two lamps shall be so placed as to be equidistant from and on each side of such centre-line; and
- (d) when in use, emit light the colour of which shall be red, and the intensity of which shall be greater than that of the light emitted by the rear lamp, referred to in regulation 50, on the vehicle; and
- (e) be so connected that it comes into operation as soon as the service brake operating device of the vehicle or of the drawing vehicle is actuated when such vehicle or combination of vehicles is in motion;
- (f) be maintained in a reasonably clean condition and in good working order.

## **D.90**

### **Exhaust, Silencers and Exhaust Pipes.**

43. No person shall operate upon a public road any motor vehicle —

- (a) unless an efficient exhaust silencer or muffling device is affixed to such motor vehicle in such a manner that the exhaust gas from its engine is projected through such silencer or muffling device which shall be so constructed as to reduce and muffle in an effective manner the sound produced by such exhaust; or
- (b) if any mechanism or device is attached thereto, enabling the exhaust gas from the engine of such motor vehicle to be projected otherwise than through the silencer or muffling device referred to in sub-regulation (a); or
- (c) if the exhaust gas from its engine or if any smoke or visible vapour is discharged under the motor vehicle or is directed to the left side of such motor vehicle or in such manner as is likely to raise dust on a public road or is so dense as to cause a nuisance to or obstruct the vision of, other users of such public road:

Provided that in the case of a light motor vehicle the exhaust tailpipe may deflect downwards to a maximum of forty-five degrees and to the left to a maximum of fifteen degrees;

- (d) if the exhaust pipe or silencer thereof is in such a position that oil or other inflammable liquid or material can drip or fall on to it, or is so placed and maintained that exhaust fumes leak into the driver's cab or passenger compartment of the vehicle.

### **Entrances and Exits.**

44. No person shall operate upon a public road any motor vehicle, other than a bus, an ambulance or a motor vehicle of a tare weight of 1,250 lbs or less which is not so constructed as to afford at least one ready means of entrance and exit on each side for the occupants thereof, each of which means shall be equipped with a permanent device capable of being operated from both the inside and the outside of the vehicle for the purpose of opening and closing such entrance or exit. Such entrances or exits shall at all times be kept clear of any obstruction while the vehicle is in use, unless some other ready means of escape, capable of being operated both from the inside and the outside of the vehicle, is provided.

## **PART VIII**

### **Chapter 1**

#### **LIGHTS AND RETRO-REFLECTORS ON VEHICLES**

45. Notwithstanding anything elsewhere contained, the lights, lamps and reflectors prescribed in this Part shall be fitted to and displayed on a vehicle if the vehicle is being operated upon a public road at times when lights are required to be shown:

Provided, however, that retro-reflectors where prescribed, shall be fitted to and displayed on a vehicle at all times when it is operated upon a public road.

## Chapter 2

### LIGHTS

#### When Lights to be Shown.

46. No person shall, during the period between half-an-hour after sunset and half-an-hour before sunrise, or at any other time when there is not sufficient daylight to render clearly visible at a distance of five hundred feet a person, vehicle, or road traffic sign, operate any vehicle upon a public road unless such vehicle is fitted with lamps as prescribed from which lights are displayed in the manner prescribed:

Provided, however, that during any such period or time lights need not be so displayed on a vehicle parked off the roadway or in a parking area indicated by a road traffic sign or signs, or within a distance of thirty feet from a lighted street lamp illuminating the public road upon which such vehicle is parked.

#### Headlamps on Motor Vehicles other than Trailers and Motor Cycles.

47. (1) Every motor vehicle other than a trailer or a motor cycle with or without a side-car, or a motor tricycle having one wheel in front, shall be fitted with two or four main lamps, referred to in these regulations as headlamps, which shall show a bright white, yellow or amber light and be so placed that if two such lamps are fitted one shall be fitted on each side of the front of the vehicle, and if four such lamps are fitted two shall be fitted towards each side of the vehicle, and in either case in such a manner that the portion of the illuminating surface of the headlamp furthest from the longitudinal centre-line of the motor vehicle shall be as near as possible to but in no case further than sixteen inches from the outer edge of the front of the vehicle:

Provided, however, that if at least one headlamp on any side of the longitudinal centre-line of the vehicle does not comply with this requirement there shall be fitted on that side on the front of the vehicle a small lamp known as a parking lamp at approximately the same height as the headlamp, which parking lamp shall comply with the requirements of regulation 53 (1) (g).

(2) The headlamps fitted in terms of sub-regulation (1) shall —

- (a) be fitted at a height of not less than eighteen inches and not more than fifty-four inches above ground level, measured to the centre of the lamp;
- (b) be firmly and substantially mounted on the motor vehicle in such a manner as to allow them to be properly, readily and firmly adjusted;
- (c) unless the design of the lamp incorporates some other means of preventing dazzle, not be fitted with a lens or lenses of clear glass or other like material;
- (d) be kept in a serviceable condition with all lenses and reflectors in a clean and proper condition.

(3) The light from such headlamps shall provide a driving beam which shall be so arranged, adjusted and maintained that —

- (a) the centre of the intense part of the driving beam shall slant downwards to strike the surface of the roadway ahead of the vehicle, when it is standing unloaded, with tyres inflated, on a level road, at a distance not exceeding three hundred and twenty-five feet; and



## D.92

- (b) in clear weather it is capable of properly illuminating a reasonably level area ahead of the motor vehicle sufficiently to reveal any person, vehicle or substantial object ten feet from either side of such motor vehicle for a distance of at least three hundred and twenty-five feet, and shall also give sufficient side illumination to reveal any person, vehicle or substantial object ten feet from either side of such motor vehicle at a point ten feet ahead of the headlamps.

(4) The driving beams shall, at the will of the driver of the motor vehicle to which such headlamps are fitted, be capable of being —

- (a) extinguished by the operation of a device which at the same time causes a passing beam which shall comply with the requirements of sub-regulation (5) to be emitted from two and not more than two such headlamps; or
- (b) extinguished by the operation of a device which at the same time causes a passing beam to be emitted from two and not more than two fog lamps which comply with the requirements of regulation 53 (1) (h).

(5) A passing beam shall be so arranged, adjusted and maintained that —

- (a) the centre of the intense part of the beam of light shall slant downwards to strike the surface of the roadway ahead of the vehicle when on a level road, at a distance not exceeding one hundred and fifty feet and such beam shall not be deflected to the right of the vehicle from which it is emitted; and
- (b) in clear weather it is capable of properly illuminating a reasonably level area ahead of the motor vehicle sufficiently to reveal any person, vehicle or substantial object ten feet from either side of such motor vehicle for a distance of at least one hundred and fifty feet, and shall also give sufficient side illumination to reveal any person, vehicle or substantial object ten feet from either side of such motor vehicle at a point ten feet ahead of the headlamps;
- (c) it does not cause dangerous glare or dazzle to oncoming traffic on a reasonably level roadway.

(6) The provisions of sub-regulations (3) and (4) shall not apply to a motor vehicle which is not designed for or capable of exceeding twenty miles per hour, provided such motor vehicle is fitted with fixed headlamps which provide a passing beam and comply with the requirements of sub-regulation (5).

### Headlamps on Motor Cycles.

48. The provisions of regulation 47 shall apply, *mutatis mutandis*, to motor cycles, with or without side-cars, and a motor tricycle with one wheel in front, except that a motor cycle and such motor tricycle shall be fitted with at least one and not more than two headlamps, and further that a side-car attached to a motor cycle shall be equipped with a lamp fitted to the front of the side-car on the side thereof furthest away from the motor cycle, which shall have a white beam of light directed forward.

### Clearance lamp.

49. (1) Where the lamps fitted to any vehicle in terms of regulation 47 are so placed that the widest part of such vehicle, combination of motor vehicles, or load carried thereon extends more than sixteen inches beyond that portion of the illuminating surface of such lamps furthest from the longitudinal centre-line of the vehicle, there shall be

fitted to the widest part of such motor vehicle or combination of motor vehicles or load two small lamps, known as clearance lamps, which shall be placed one towards each side as high up as possible in such a manner that the centre of each clearance lamp shall be as near as possible to, but in no case further than sixteen inches from, the outside edge of the widest part of the motor vehicle or combination of motor vehicles or load, whichever projects furthest from the longitudinal centre-line of the motor vehicle. Each such clearance lamp —

- (a) shall not exceed a capacity of fifteen watts ;
- (b) shall emit a white light ;
- (c) shall be kept lighted whenever lights are required to be displayed in terms of regulation 46 ; and
- (d) shall be visible from directly in front of the motor vehicle or combination of motor vehicles to which it is fitted.

(2) The fitting of clearance lamps to a device attached to the top of the cab of such vehicle in such a way that the widest part of the vehicle or combination of vehicles or load, as the case may be, is indicated as prescribed, shall be deemed to be sufficient compliance with sub-regulation (1).

#### **Rear Lamps on Motor Vehicles.**

50. Every motor vehicle and, in the case of a combination of motor vehicles, the last motor vehicle in such combination shall be fitted with two rear lamps at the back thereof emitting a red light directly to the rear of such motor vehicle, known as rear lamps, which lamps may be incorporated in the stoplight referred to in regulation 42. Except in the case of a motor vehicle fitted with a rear lamp on each side of such motor vehicle, the rear lamp shall be fitted to the right of or on the longitudinal centre-line of the body of the motor vehicle. In every case the rear lamps shall be so fitted on the motor vehicle as to be not less than twelve inches nor more than five feet from ground level.

#### **Registration Number-Plate Lamp.**

51. Every motor vehicle shall be fitted with at least one lamp at the back thereof, known as a number-plate lamp. Such lamp shall be so affixed that it illuminates the number-plate by means of a white lamp, the source of which shall not be visible from the rear of such motor vehicle otherwise than by reflection, so that every letter and figure of the number-plate shall be plainly distinguishable under normal atmospheric conditions from a distance of at least sixty-five feet.

#### **Projecting Loads.**

52. When any load carried on any vehicle extends more than twelve inches beyond the rear end of such vehicle there shall be fitted to the rearmost portion of such load, at any time when lights are, in terms of regulation 46 required to be shown, a lamp or lamps emitting a bright red light clearly visible under normal atmospheric conditions from a distance of at least five hundred feet.

#### D.94

##### **Additional Lights on Vehicles.**

53. (1) In addition to the lamps and reflectors prescribed, it shall, subject to any restrictions herein laid down, be permissible to fit and display on any vehicle any or all of the following lamps —

- (a) Interior lamps, that is lamps for illuminating the interior of the vehicle, including any instrument panel thereof, or any entrance thereto, the light from which lamps shall be diffused.
- (b) Destination indicator lamps, that is lamps for illuminating any notice relating to the destination of the vehicle or its availability for hire.
- (c) Reversing lamps, that is lamps for illuminating the road to the rear of or under the vehicle, which lamps shall be under the direct control of the driver and shall be either so fitted as to be operated only when the motor vehicle is placed in reverse gear or be interconnected with an auxiliary device by which the driver shall be made aware of the lamp's being in operation. Not more than two such lamps may be fitted and no light shall be emitted therefrom except when the vehicle is reversing or about to reverse.
- (d) Decorating lamps, that is lamps for decorating the vehicle for the purpose of a procession.
- (e) Inspection lamps, which may be displayed only when actually in use for the purpose of carrying out repairs or inspections.
- (f) Small yellow or amber-coloured lamps, not exceeding a capacity of fifteen watts, in addition to, and in the manner prescribed for, side marker lamps in regulation 60.
- (g) Two, and not more than two, parking lamps, one towards each side of the vehicle. Such parking lamps shall —
  - (i) be of a capacity of between six and fifteen watts;
  - (ii) be visible from directly in front of the vehicle;
  - (iii) be so placed that the portion of the illuminating surface furthest from the longitudinal centre-line of the vehicle is not more than sixteen inches from the outer edge of the front of the vehicle.
- (h) (i) Not more than two fog lamps which shall be so placed that the lowest portion of the illuminating surface of such lamp is not more than twenty-four inches from ground level and shall be so arranged, adjusted and maintained that they provide only a passing beam, as in regulation 47 (5) which beam may be white, yellow or amber.
  - (ii) When two fog lamps are fitted they shall comply, *mutatis mutandis*, with the requirements of regulation 47 (1) and shall not be illuminated at the same time as the headlamps.
  - (iii) Where one fog lamp is fitted they shall be used only in conjunction with the headlamps.
- (i) Identification lamps, that is at least two small lamps, one towards each side of every motor vehicle, the gross vehicle weight of which exceeds 7,700 lbs. Such identification lamps shall be placed above the windscreen not less than twelve inches from and equidistant from the longitudinal centre-line of the vehicle. Each such identification lamp —

- (i) shall not exceed a capacity of fifteen watts ;
  - (ii) shall be visible from directly in front of the motor vehicle to which it is fitted ;
  - (iii) shall, in the case of a bus, be green in colour ; and
  - (iv) shall, in the case of a goods-carrying vehicle, be violet in colour.
  - (j) A lamp illuminating a notice or token to identify a vehicle used as an ambulance, fire engine, blood transfusion service vehicle, police vehicle or traffic control vehicle.
  - (k) A lamp of the type commonly known as a "spotlight" which can be adjusted so as to enable a beam of light, projected from such lamp, to be deflected in varying directions. A spotlight may be carried on or fitted to only —
    - (i) any ambulance, fire engine, police vehicle, traffic control vehicle or a motor vehicle owned by a doctor or veterinary surgeon solely for use in connection with their duties ;
    - (ii) any breakdown vehicle or a vehicle employed in connection with the supply of electricity or other essential services for use solely at the scene of an accident or breakdown, or for the examination of overhead telephone, telegraph or power lines.
  - (l) A blue lamp, capable of flashing forwards and backwards, fitted on the hood of a vehicle used as a police vehicle or traffic control vehicle.
  - (m) A blue lamp illuminating the word "STOP" to the rear of a vehicle used as a police vehicle or traffic control vehicle and capable of being illuminated at the will of the driver.
- (2) No lighted lamp other than those prescribed or those permitted in terms of sub-regulation (1) shall be displayed on any vehicle while upon a public road.

**Lights on Vehicles Other than Motor Vehicles — Animal Drawn Vehicles.**

54. (1) No person shall operate upon a public road any vehicle drawn by an animal or animals unless it is fitted in front, on the extreme right side thereof, with a lamp showing a white light forward and, in the case of a vehicle drawn by an animal or animals which is or are not controlled by reins, at the head of the foremost animal or animals a person guiding and controlling such animal or animals is provided, who shall carry a lamp showing a white light forward.

**Pedal Cycles.**

(2) No person shall operate a pedal cycle upon a public road unless such pedal cycle is fitted —

- (a) in front with a lamp showing a bright white light, the intense part of the beam of which shall strike the roadway at a distance of not less than ten feet and not more than one hundred feet ahead of such pedal cycle ;
- (b) with a rear mudguard, the rear end of which shall be painted white on the outside of a length of not less than nine inches, measured from the rear extremity of such mudguard. The surface painted shall be kept white and reasonably free from dirt.

(3) Every pedal cycle may be fitted with a rear lamp as prescribed in regulation 50, except that it may be attached anywhere to the rear of such pedal cycle.

**D.96**

**All Other Vehicles.**

(4) No person shall operate upon a public road any vehicle not otherwise provided for in this Chapter unless it is fitted with at least one lamp showing a white light forward on the extreme right of the front thereof:

Provided, further, that any vehicle referred to in this paragraph may be fitted with rear lamps as prescribed in regulation 50.

(5) The light from any lamp to be carried in the front of a vehicle, other than a motor vehicle, shall be of a sufficient power to illuminate the roadway immediately ahead of such vehicle, but shall not be of such power or design or be so fitted as to dazzle other persons using the public road.

(6) For the purpose of this regulation the term "vehicle" shall not include any animal being ridden, led or driven, except as provided for in sub-regulation (1), or a perambulator.

**General Requirements for Lights.**

55. (1) No person shall operate upon a public road any vehicle which is fitted or carries on it a lamp which —

- (a) when facing a forward direction, emits a light which is red in colour; or
- (b) when facing to either side of the vehicle, emits a light which is not yellow or amber in colour; or
- (c) except in the case of a direction indicator complying with regulations 37, 38, 39 and 40, a stoplight complying with regulation 42 or a reversing lamp complying with regulation 53 (1) (c) when facing in a rearward direction emits a light which is not red in colour:

Provided, however, that a vehicle actually in use as an ambulance or fire engine or as a police or traffic control vehicle may display an intermittently flashing red light in any direction.

(2) Every lamp required to be fitted to or to be used in connection with any vehicle shall display a light of sufficient brilliance to be visible from a distance of at least five hundred feet during the hours of darkness in clear weather and, in the case of a direction indicator incorporating a lamp, from a distance of at least one hundred feet in normal sunlight.

(3) Every lamp fitted to any vehicle shall emit diffused light when displayed upon a public road:

Provided, however, that this provision shall not apply to headlamps, inspection lamps, the front lamps on bicycles, spotlights where the latter are permitted, or fog lamps.

(4) Except where otherwise provided, any lamps required to be fitted to, or to be used in connection with any vehicle shall emit a steady light when in operation.

(5) Where any prescribed lamp is required to be duplicated, such lamps shall —

- (a) emit light of the same colour;
- (b) be placed symmetrically in relation to the longitudinal centre-line of the vehicle;

- (c) except in the case of direction indicator lamps prescribed in regulations 37, 38, 39 and 40 be placed at the same height.

(6) Every lamp fitted as prescribed to any vehicle shall be securely fixed or tied to such vehicle.

(7) The glass and reflector, if any, of every lamp fitted to or carried as prescribed on any vehicle shall be maintained in a reasonably clean and servicable condition.

### Chapter 3

#### RETRO-REFLECTORS

##### Specification for Retro-reflectors.

56. For the purposes of this Chapter "retro-reflector" means a reflector which complies with the South African Bureau of Standards specification for retro-reflectors (S.A.B.S. Specification 513 of 1954) or any amendment thereto:

Provided that nothing contained in this regulation shall invalidate the display on a vehicle of any reflector which complies with the requirements prescribed for retro-reflectors in terms of these regulations prior to the commencement of this regulation.

##### White Retro-reflectors to be fitted on Front of certain Vehicles.

57. (1) No person shall operate upon a public road —

- (a) any motor vehicle, other than a motor cycle without side-car or motor tricycle with one wheel in front;
- (b) any animal drawn vehicle

unless there are fitted on the front of such vehicle, and at the same height, two white retro-reflectors, one on each side of the longitudinal centre-line thereof and equidistant therefrom and otherwise complying with the provisions of this Chapter.

(2) Each retro-reflector referred to in sub-regulation (1) shall —

- (a) in the case of a motor vehicle, other than a trailer, be so placed that the portion of its reflective surface furthest from the longitudinal centre-line of the vehicle is not further than sixteen inches from the outer edge of the widest portion of the vehicle:

Provided that where by reason of the structure of any vehicle a retro-reflector cannot be placed in accordance with the foregoing provisions of this paragraph, such retro-reflector shall be placed as near as possible to the outer edge concerned;

- (b) in the case of any vehicle not provided for in paragraph (a) be so placed that the portion of its reflective surface furthest from the longitudinal centre-line of the vehicle is not further than two inches from the outer edge of the widest portion of the vehicle;

Provided that where by reason of any vehicle a retro-reflector cannot be placed in accordance with the foregoing provisions of this paragraph, such retro-reflector may be fitted as near as possible to the front and outer edge concerned, provided it is clearly visible to oncoming traffic.

**D.98**

(3) No person shall operate any motor cycle without side-car, motor tricycle with one wheel in front or pedal cycle upon a public road unless it is fitted on the front with a white retro-reflector complying with the provisions of this Chapter.

**Red Retro-reflectors to be fitted on the Back of certain Vehicles.**

58. (1) No person shall operate upon a public road —

- (a) any motor vehicle, other than a motor cycle without side-car or motor tricycle with one wheel at the back;
- (b) any animal-drawn vehicle,

unless there are fitted on the back of such vehicles, and at the same height two red retro-reflectors, one on each side of the longitudinal centre-line thereof and equidistant therefrom and otherwise complying with the provisions of this Chapter. In the case of a combination of motor vehicles, all vehicles in such combination shall be fitted with retro-reflectors as prescribed.

(2) Each retro-reflector, referred to in sub-regulation (1), shall be so placed that the portion of its reflective surface furthest from the longitudinal centre-line of the vehicle is not further than sixteen inches from the outer edge of the widest portion of the vehicle :

Provided that where by reason of the structure of any vehicle a retro-reflector cannot be placed in accordance with the foregoing provisions of this sub-regulation such retro-reflector shall be placed as near as possible to the outer edge concerned.

(3) No person shall operate upon a public road any motor cycle without side-car, motor tricycle with one wheel at the back or pedal cycle unless it is fitted on the back with a red retro-reflector complying with the provisions of this Chapter.

**Warning Sign on Back of certain Motor Vehicles.**

59. (1) For the purposes of this regulation —

- (a) the expression "motor vehicle" shall not include a motor car, motor tricycle, motor cycle, tractor, panel van or light delivery vehicle ;
- (b) "reflective material" means reflective material which under all circumstances is capable of reflecting light.

(2) No person shall operate a motor vehicle on a public road unless there is displayed on the back of such motor vehicle a warning sign complying with the provisions of sub-regulation (4).

(3) The warning sign shall consist of alternate diagonal strips of red reflective and yellow non-reflective material in the form of a chevron pattern and in accordance with the following dimensions —

- (a) Vertical dimensions — not less than eight inches ;
- (b) width of strips of red reflective material not less than two or more than three inches ; and
- (c) width of strips of yellow non-reflective material — not less than four or more than five inches.

(4) The warning sign required to be displayed on a motor vehicle in terms of this regulation shall —

- (a) be in an upright position or within fifteen degrees of such position and face squarely to the back;
- (b) be so placed that the lower edge thereof is not more than forty-two inches above ground level;

Provided that if, owing to the structure of the vehicle, it is impossible to fit the warning sign at the prescribed height, it shall be fitted as near as possible to such height;

- (c) extend horizontally for such distance as is necessary to indicate the overall width of the vehicle, to which it is fitted to within sixteen inches on either side; and
- (d) be unobscured and clean.

(5) In the case of the combination of motor vehicles it shall be a sufficient compliance with this regulation if on the rearmost vehicle, there is displayed a warning sign referred to in sub-regulation (2).

**Yellow Retro-reflectors (Side Marker Lamps) fitted to the sides of certain Vehicles.**

60. (1) No person shall operate a motor vehicle or a combination of motor vehicles, other than a bus, upon a public road if the overall length of such vehicle or combination exceeds twenty-four feet, unless there are fitted on each side thereof yellow retro-reflectors, also known as side marker lamps, one within sixteen inches of the front and one within sixteen inches of the back of such vehicle or combination and so many additional yellow retro-reflectors as may be necessary to ensure that no two such successive retro-reflectors on any one side are more than twelve feet apart and otherwise complying with the provisions of this Part:

Provided that in the case of a combination of motor vehicles, where the drawing vehicle is a motor car, yellow retro-reflectors shall not be required to be fitted to such drawing vehicle and for the purposes of this sub-regulation the front of any such combination shall be deemed to be the front of the vehicle immediately following such drawing vehicle.

- (2) Yellow retro-reflectors may be fitted to the pedals of pedal cycles.

**Projecting Loads.**

61. No person shall operate upon a public road any motor vehicle or animal-drawn vehicle if the load on such vehicle projects more than —

- (a) six inches to the side thereof unless the extent of such projection is indicated by means of a white retro-reflector fitted to the front of such load and a red retro-reflector fitted to the back of such load; and
- (b) twelve inches beyond the back thereof, unless the width of such projection is indicated by means of red retro-reflectors fitted on the end of such projection and unless the length of such projection is indicated by means of yellow retro-reflectors fitted on both sides of such projection at the end thereof:

Provided that where the width of any such projection is less than two feet it shall be sufficient for the purpose of indicating such width to fit one red retro-reflector on the end thereof.



## **D.100**

### **General.**

62. Every retro-reflector required to be fitted to a vehicle or load in terms of this Chapter shall —

- (a) be not lower than twelve inches and not higher than forty-two inches from ground level measured to the centre of the retro-reflector:

Provided that if, owing to the structure of the vehicle, it is impossible to fit retro-reflectors on the sides of the body of such vehicle at the prescribed height, the retro-reflectors shall be fitted as near as possible to such height; and

- (b) if it be —

- (i) a white retro-reflector, be in a vertical position and face squarely to the front;
  - (ii) a red retro-reflector, be in a vertical position and face squarely to the back; and
  - (iii) a yellow retro-reflector, be in a vertical position and face squarely to the side; and
- (c) be clean, unbroken and unobscured; and
- (d) in the case of a motor car, be not fitted to the lid of the boot or to the bonnet of such motor car.

### **Back Retro-reflectors on Vehicles with Abnormal Body Height.**

63. If it is impossible to fit retro-reflectors on the body of a vehicle so as to comply with the requirements of regulation 58 (2) and regulation 62 (a), two red retro-reflectors shall be fitted to the back of such vehicle in the manner prescribed in regulation 58 (2) as low as possible on the body of such vehicle and two additional red retro-reflectors shall be fitted on the back of the vehicle on the underframe thereof at the height prescribed in regulation 62 (a) as far apart as such underframe will permit.

### **Unlawful Use of Reflectors.**

64. No person shall operate any vehicle upon a public road while displaying to the —

- (a) front thereof, a reflector which is not a white reflector;
- (b) back thereof, a reflector which is not a red reflector; or
- (c) side thereof, a reflector which is not a yellow reflector.

## **PART IX**

### **PUBLIC MOTOR VEHICLES**

#### **Interpretation.**

65. For the purposes of this Part, a public motor vehicle which provides for the conveyance of both passengers and goods shall, in so far as the passenger compartment is concerned, be deemed to be a bus.

**Forms to be used in connection with Public Motor Vehicles.**

66. The application form for, the form of certificate of fitness and, in the case of a trailer, the certificate of fitness disc to be carried on public motor vehicles shall be as prescribed in Schedules 30, 31 and 27 respectively.

**Requirements for all Public Motor Vehicles.**

67. A motor vehicle, in order to satisfy the requirements for a public motor vehicle, shall comply with all the relevant requirements prescribed in Parts VII and VIII for a motor vehicle and subject otherwise to the provisions of this Part with the following further requirements —

- (a) the motor vehicle shall be in a clean state and in thoroughly sound and serviceable condition, ready for use and suitably painted, and shall be of such construction and in such condition as not to be likely to endanger persons or property on public roads;
- (b) the motor vehicle shall be of such construction and in such condition as to carry with safety the number of passengers for which it has accommodation and shall be otherwise fit for the purpose for which it is intended;
- (c) the tyres, doors, windows, curtains, seats, roof, springs, parking brake ratchets, wheels, upholstery, cushions, linings, panels and all furniture and appointments or other equipment of the vehicle shall be in proper order and repair;
- (d) carburettors and other petrol receptacles shall be in sound condition and free from leaks and, unless they are suitably encased or screened, shall not be in close proximity to ignition apparatus or to connections of wires carrying electric current.
- (e) dust covers, if any, on the steering mechanism shall be so fitted as to allow ready inspection of the points of connections of such mechanism.

**Additional Requirements for Buses.**

68. The following additional requirements shall be complied with in the case of a bus —

**Tyres.**

- (a) pneumatic tyres shall be fitted;

**Fuel receptacles, etc.**

- (b) fuel tank, fuel receptacles and fuel pipes fitted shall be maintained free of all leaks and shall not be placed inside the body or cab. No fuel tank shall be permitted in close proximity to the engine. The filling orifice of any fuel tank shall be placed to the outside of the body of the cab;

**Fuel cut-off tap or cock.**

- (c) except in the case of a bus operated on diesel fuel, a tap or cock shall be fitted in the fuel supply pipe between the tank and the fuel pump for the purpose of cutting off the fuel supply. Such a tap or cock shall be so arranged that it can be operated by the driver without having to leave his seat for the purpose;

## **D.102**

### **Fire extinguishers.**

- (d) at least one 7 lb. dry chemical powder fire extinguisher, recently certified as being in good working order, shall be carried in a readily accessible position;

### **Rear View Mirrors.**

- (e) rear view mirrors shall be fitted in such positions as to afford the driver a clear at all times of traffic generally to the rear of the vehicle.

### **Carrying Capacity of Public Motor Vehicles.**

69. (1) No passengers may be carried in or on any public motor vehicle other than in the compartments provided for the purpose on such vehicle.

(2) Subject otherwise to the requirements of regulations 28 and 29 relating to axle weight and loading of vehicles, the number of standing passengers permitted to be carried on a bus shall be determined as follows —

- (a) standing passengers shall not be permitted on the upper deck, steps, stairs or open platform or next to an unguarded open entrance of a public bus except in the course of passengers entering or leaving the bus;
- (b) the number of standing passengers shall not exceed the number for whom clear floor space is available at the rate of two square feet per person;
- (c) (i) not more than twenty-five per cent of the total number of passengers stipulated in the certificate of fitness in respect of a single deck bus or the lower deck of a double deck bus shall be permitted to stand;

Provided that the Minister may determine a higher percentage of standing passengers in respect of any bus operated on a particular route or in a particular area if he is satisfied that by reason of the terrain over which it is operated and its construction an increase in standing passengers is not likely to endanger the safety with which the vehicle may be operated;

- (ii) whenever the Minister has increased the number of standing passengers in respect of a bus in terms of the proviso to sub-paragraph (i) he shall notify the inspecting officer for the area in which the vehicle operates of any additional standing passengers permitted, who shall certify the additional number of standing passengers authorised by the Minister;
- (iii) any concession in standing passengers allowed by the Minister in terms of sub-paragraph (i) shall automatically lapse on a change of route or area of operations, as the case may be, of the bus concerned or in the event of its reconstruction.

(3) No passenger may stand on the upper deck, or on any steps or stairs, or on an open entrance, platform or next to an unguarded open entrance of any vehicle while it is in motion.

### **Conditions Under which Certificates of Fitness are Held.**

70. Every certificate of fitness issued in respect of a public motor vehicle shall be subject to the following conditions in so far as they are applicable to the class or description of the motor vehicle concerned —

- (a) the public motor vehicle shall at all times be kept in a clean and hygienic condition;

- (b) the maximum weight of goods and number of passengers which may be carried at any one time on a public motor vehicle, and specified in the certificate of fitness in respect thereof, shall not be exceeded :

Provided, however, that —

- (i) no child under the age of three years sitting on the lap of an adult shall be deemed a passenger within the meaning of this condition ; and
  - (ii) two children three years and over but under six years shall count as one passenger ; and
  - (iii) three children six years and over but under thirteen years shall count as two passengers ;
- (c) a public bus shall not be used for the conveyance of goods unless the provision made therefor has been approved by the inspecting officer ;

Provided, however, that nothing herein shall prevent the conveyance upon a public bus of such personal effects or goods of a non-bulk nature of the passengers, driver and conductor (if any) as may be retained in their personal custody or be placed beneath seats or upon suitable racks provided for the purpose, without interfering with the reasonable comfort or convenience or endangering the safety of any person travelling in such bus ;

- (d) (i) where a certificate of fitness authorises the conveyance of passengers only on a public motor vehicle, such motor vehicle shall not be used for the conveyance of goods other than the personal effects of the passengers, driver and conductor (if any) ;
  - (ii) the personal effects referred to in sub-paragraph (i) shall not be conveyed upon the roof of a public motor vehicle unless a suitable container of a permanent nature has been provided thereon for that specific purpose, and no such personal effects shall otherwise be conveyed on a public motor vehicle except within the bodywork thereof or upon a properly constructed luggage rack attached to the rear portion thereof ;
- (e) a public motor vehicle shall at all times be maintained in sound running condition and repair and in conformity with all the requirements prescribed in relation to the issue of a certificate of fitness.
- (f) a breach of any condition specified in this regulation when such condition is applicable to the public motor vehicle concerned, whether on the part of the owner or driver or conductor of such public motor vehicle, shall be an offence.

#### **Display of Notices Regarding Number of Passengers and Loads.**

71. (1) Buses shall have notices worded "Certified to carry ..... passengers seated and ..... passengers standing" painted in such colours as to be clearly distinguishable from the colour of the ground whereon such notices are marked or affixed. Such notices shall be placed in a conspicuous position inside such bus, and shall at all times be plainly and distinctly visible and legible, and truly state the number of passengers which such public bus is certified to carry under the then current certificate of fitness. The figures denoting the number of passengers shall be at least three inches in height.

#### **D.104**

(2) Public motor vehicles other than motor cars which are certified as fit to carry both passengers and goods shall have notices as aforesaid worded "Certified to carry ..... passengers seated, ..... passengers standing, and ..... lbs. goods".

### **PART X**

#### **REGISTRATION MARKS AND NUMBERS ON MOTOR VEHICLES**

##### **Number-Plates to be Provided.**

72. The registration mark and the number allotted to a motor vehicle in terms of section 18 (1) shall be displayed either upon two substantial plates rectangular in shape and constructed of metal or other durable material not readily affected by weathering, or upon suitable spaces provided therefor by the manufacturer of the motor vehicle on the body of such vehicle either arrangement being referred to in these regulations as a number-plate.

##### **Colours of Number-Plate.**

73. (1) The colours of number-plates shall be as follows —

- (a) for motor vehicles, other than motor cycles, used under the authority of a motor vehicle dealer's licence, all letters and figures shall be a signal red colour and the remainder of the plate white;
- (b) for motor cycles, including light motor cycles and tricycles, used under the authority of a motor vehicle dealer's licence, all letters and figures shall be white and the remainder of the plate signal red;
- (c) for public motor vehicles, all letters and figures shall be black and the remainder of the plate white;

Provided that a public motor vehicle which is used for the conveyance of passengers and is kept for hire at recognised business premises and does not ply for hire on any public road, with the approval of the Minister, display number-plates as provided in sub-paragraph (e);

- (d) for motor vehicles in respect of which the owners are exempted from the payment of registration and licence fees under the Second Schedule to the Law, all letters and figures shall be black and the remainder of the plate yellow;
- (e) for all other motor vehicles, all letters and figures shall be white and the remainder of the plate black.

(2) No number-plate shall be electroplated or be of bare metal, and the background shall not be outlined in any colour different from such background.

(3) The colours as aforesaid on all number-plates shall at all times be maintained in a clear and distinct condition.

##### **Dimensions of Letters, Figures and Spaces.**

74. (1) The dimensions of all letters, figures and spaces in all number-plates shall be as follows —

	Number-plates for motor vehicles other than motor- cycles	Number-plates for motor- cycles
Height of figures and letters	not less than 3 inches	Not less than 2 inches.
Width of letters "W" and "M"	at least $1\frac{5}{8}$ inches	at least $1\frac{1}{2}$ inches.
Other letters and figures (figure "I" and letter "1" excepted )	at least $1\frac{3}{8}$ inches	at least $1\frac{1}{4}$ inches.
Width of stroke in figures and letters	between $\frac{3}{8}$ inch and $\frac{7}{16}$ inch	between $\frac{5}{16}$ inch and $\frac{7}{16}$ inch.
Space between adjoining figures or letters	between $\frac{3}{8}$ inch and $\frac{1}{2}$ inch	between $\frac{3}{8}$ inch and $\frac{1}{2}$ inch.
Space between registration mark and number where set out of line	at least 1 inch	at least 1 inch.
Margin between nearest part of any figure or letter and edges of plate.	at least $\frac{3}{4}$ inch	at least $\frac{1}{4}$ inch.

(2) Where the figures exceed five in number the space between the third and fourth figure shall, notwithstanding the provisions of sub-paragraph (1), be at least one inch.

#### Arrangements of Letters and Figures.

75. (1) In the case of number-plates, other than those used under the authority of a motor vehicle dealer's licence, the registration mark and number assigned shall be arranged either —

- (a) with all letters and figures in one line in which the registration mark shall precede the number; or
- (b) with the registration mark in one line and the number on a line immediately below.

(2) In the case of number-plates used under the authority of a motor vehicle dealer's licence, the number assigned by the registrar shall precede the registration mark and all letters and figures shall be arranged as follows —

- (a) In the case of number plates for motor vehicles other than motor cycles, in
- (b) In the case of number-plates for motor cycles, the one line ;  
number in one line and the registration mark on a line immediately below.

## D.106

### Positions of Number-plates.

76. (1) One number-plate shall be fixed on the front of the motor vehicle and one on the back in an upright position and in such a manner that every letter and figure shall at all times be clearly discernible from the front and the rear of the motor vehicle, and that a clear view of the whole of any number-plate is not obstructed by any fixtures or fittings:

Provided, however, that in the case of a number-plate on —

- (a) the front of a motor cycle, the registration mark and the numbers shall, whenever possible, be so arranged and displayed as to be clearly visible from either side of such motor cycle;
- (b) a motor tricycle having one wheel in front, the registration mark and number may be displayed in the manner prescribed for a motor cycle;
- (c) a farm trailer, as defined in regulation 79 (2) (c) such number-plate may be fixed at the rear only of such trailer, or the registration mark and number may be so arranged as to be clearly visible from either side of such trailer when no load is carried thereon.

For the purpose of this regulation, "upright position" includes a tolerance of not more than fifteen degrees from vertical.

(2) All number-plates shall be so placed on a motor vehicle as to be not more than five feet above ground level.

(3) The provisions of sub-regulation (1) and (2) shall apply, *mutatis mutandis*, to the positions of motor vehicle dealers' number-plates:

Provided, however, that a motor vehicle dealer's number-plate in respect of a motor cycle shall be attached at the rear only of such motor cycle.

(4) In every motor vehicle dealer's number-plate used under authority of a motor vehicle dealer's licence, provisions shall be made for holding the licence clearance certificate to be issued annually by the registrar.

(5) Any motor car used as a public motor vehicle for the conveyance of passengers may display the word "Taxi" immediately above the registration mark and number assigned thereto, either upon the number-plates or upon separate metal securely attached to the number-plates. The dimensions of the letters and spaces between the letters in the word "Taxi" shall not exceed the dimensions prescribed for the letters and space in registration marks and shall be black on a white background.

### Number-plates on Vehicles Registered and Licensed in Prescribed Territories.

77. No person shall operate a motor vehicle registered or licensed in any prescribed territory upon a public road unless the registration mark and number assigned thereto by the competent authority is displayed thereon in accordance with and in the manner prescribed by the law in force in such territory:

Provided that in the case of a prescribed territory there shall also be displayed on such motor vehicle the distinguishing mark allotted to that prescribed territory in terms of any International Convention relative to motor traffic to which the Government of Botswana is a party.

**PART XI****GENERAL****Hand Signals.**

78. (1) The hand signals which every person operating a vehicle upon a public road shall give in terms of Section 77 shall be given in the following manner —

- (a) if about to stop the vehicle or reduce its speed suddenly, extend his right arms from the shoulder with the forearm held in a vertical and upward position, the palm of the hand being turned to the front ;
- (b) if about to turn the vehicle to the right, extend his right arm and hand fully horizontal to the roadway, the palm of the hand being turned to the front ;
- (c) when about to turn his vehicle to the left, the driver shall extend his right arm from the shoulder with the forearm downwards and move the forearm with a circular anti-clockwise motion.

(2) The following additional hand signals may be used by the driver of a vehicle —

- (a) when about to slow down his vehicle, extend his right arm with the palm of the hand downwards and move the arm slowly up and down ;
- (b) to indicate to the following traffic that it may overtake his vehicle on the right, fully extend his right arm below the level of the shoulder with the palm of the hand turned forward and move it backwards and forwards from the shoulder.

**Exemptions: Farm Implements.**

79. (1) Mechanical harvesters, mowers, ploughs, harrows and other farm implements, including tractors, shall be exempt from the provisions of these regulations relating to the construction and equipment of vehicles, subject to the following conditions —

- (a) no such vehicle shall be operated on a public road between half-an-hour after sunset and half-an-hour before sunrise except with the written permission of the road authority exercising control over the public road on which the vehicle is to be operated, and subject to such conditions as the road authority may impose. A road authority, in granting the permission aforesaid shall specify the lights to be displayed on such vehicle ;
- (b) no such vehicle shall be operated at a speed in excess of fifteen miles per hour ;
- (c) if such vehicle or its load exceeds the maximum width or length specified in these regulations for vehicles and their loads, the extremities of the excessive width or length shall be clearly indicated by red flags or red lamps in accordance with the requirements of regulation 25 (2) ;
- (d) the owner of any such vehicle which causes damage to a public road or structure thereon shall immediately report it to the road authority exercising control over that road or structure, and shall bear the cost of the repair of the damage so caused ;
- (e) the driver of such vehicle shall, if possible, drive it off the roadway if necessary in order to allow other vehicular traffic to pass.



#### **D.108**

(2) Farm trailers shall be exempt from the provisions of regulation 42 and Part VIII, subject to the following conditions —

- (a) no person shall operate a farm trailer on a public road at any time between half-an-hour after sunset and half-an-hour before sunrise unless it is fitted with two white reflectors on the front and two red reflectors on the rear indicating the width of such trailer or the load thereon, whichever is the wider;
- (b) the retro-reflectors referred to in paragraph (a) shall comply with the provisions of regulation 56 and shall be displayed in such a way as to cause the light of on-coming traffic from the front and the rear of the trailer to be clearly reflected in the direction of such traffic.
- (c) for the purpose of this sub-regulation a farm trailer shall mean any trailer in respect of which a current licence has been issued in terms of the First Schedule Part II (6) (b) of the Law but shall not include any such trailer which is drawn by any motor vehicle other than a tractor.

#### **Exemptions: Road-making and other Machinery.**

80. Motor vehicles incorporating road-making, earth-moving excavation, construction or loading machinery shall be exempt from the provisions of these regulations relating to the construction and equipment of vehicles:

Provided that they are not operated on the roadway of a public road otherwise than in the course of the construction or maintenance of such roadway; and provided, further that between half-an-hour after sunset and half-an-hour before sunrise no such motor vehicle shall be left or used on the roadway of a public road which has not been closed, unless lights of sufficient brilliance to be visible in clear weather on a straight, reasonably level road from a distance of at least five hundred feet by a person of average eyesight at any time during such period, are displayed on the front and the rear of such vehicle.

#### **Exemption of Medical Practitioners From Certain Parking Requirements.**

81. Any township authority may by by-law duly made and published exempt any medical practitioner who is the owner of a motor vehicle, ordinarily by him when carrying out his professional duties, from the provisions of any such local parking by-law or local parking requirement as may be specified in such by-law while exhibiting or displaying upon such motor vehicle a circular metal token two inches in diameter bearing a white cross upon a green background, to be provided by such medical practitioner at his own expense which shall be affixed to the radiator or in front of the bonnet of the motor vehicle:

Provided that no such exemption shall have effect until there has been paid to such officer as the township authority may appoint a fee of one rand, upon receipt of which such officer shall issue a certificate to such medical practitioner, in which shall be stated the extent of the exemption which is granted in terms of this regulation from the local parking by-law of such township authority, together with the make, registration mark, and number and engine number of the motor vehicle in respect of which the exemption is allowed.

## PART XII

### ROAD TRAFFIC SIGNS

#### **General Classifications of Road Traffic Signs.**

82. (1) The design, height, size, colour and nature of signals, warning sign posts and other marks, signs and devices, referred to in these regulations as "road traffic signs" the purposes which they are intended to serve, the meaning, prohibitions, restrictions, or requirements which they are respectively intended to convey to persons using public roads, the methods to be used in their placing or erection, their positions, materials and method of display shall be as set out in the following sub-regulation.

(2) Road traffic signs are divided into the following classes —

#### **I ROADSIDE SIGNS**

- (a) Danger signs;
- (b) prohibitive and mandatory signs;
- (c) de-restriction signs;
- (d) informative signs;
- (e) combined signs.

#### **II TRAFFIC MARKINGS**

- (a) Lines;
- (b) other signs and markings.

#### **III ROAD TRAFFIC SIGNALS**

- (a) Road traffic signals or robots;
- (b) flashlights;
- (c) bollards.

#### **IV TEMPORARY SIGNS**

#### **Details of Road Traffic Signs.**

- (3) (a) the types, dimensions and colours of the prescribed traffic signs are indicated, where possible, in the Appendix. These details shall be adhered to unless variations are allowed in the definition of each sign;
- (b) in classes I and IV where illumination is referred to it shall mean illumination during the times when lights are required to be displayed on vehicles on public roads by a suitable type of direct lighting or alternatively by the use of materials or devices embodied in the sign itself to give indirect or reflected lighting;
- (c) all dimensions given are minimum dimensions:

Provided however, that a tolerance of five per cent, below such minimum dimensions shall be permissible.

## D.110

### Danger signs.

- (4) (a) danger signs are signs used to indicate conditions which are actually or potentially hazardous and requiring reduction of speed for safety;
- (b) the general shape and design of danger signs are illustrated by signs Nos. 1 and 2. A closed triangle may be used provided the centre portion is painted white. The dimensions and colours given in these illustrations shall apply except where otherwise specified. In urban areas the red triangle and legend or the red triangle and ground of these signs shall be illuminated. In rural areas the red triangle and legend of these signs shall be illuminated.
- (c) the following signs fall under this class —
  - No. 3 — Crossroads:— To give warning of an intersection.
  - No. 4 — Cross-drain or dip: To give warning of a cross-drain or dip intersecting a public road.
  - No. 5 — Unguarded level crossing of a public road and rail track.
  - No. 6 — Gate or barrier across a public road, or barrier at a level crossing of a public road and rail track.
  - No. 7 — Motor gate: To give warning of a gate or a barrier, and a motor grid gate which is situate to the right of the barrier; the arrow on this sign may be shown at an angle up or down or similarly on the right of the sign.
  - No. 8 — Motor gate: To give warning of a motor grid gate which is situate in the roadway.
  - No. 9 — Narrow bridge: To give warning of a bridge which has an appreciable narrower roadway width than the adjacent roadway.
  - No. 10 — Ferry: To indicate the proximity of a ferry.
  - No. 11 — Traffic circle: To indicated that the public road turns about a traffic island.
  - No. 12 — To indicate the proximity of a children's play-ground. When this sign is used at a school the wording "school" shall appear above the symbol in 3 inch minimum lettering.
  - No. 13 — To indicate the proximity of a railway level crossing and to be erected on the public road in the immediate vicinity of the crossing.
  - No. 14 — Alternative sign to No. 13 having flashlights in the angles of the arms.

### Prohibitive and Mandatory Signs.

- (5) (a) Prohibitive and mandatory signs are regulatory signs conveying an instruction that the use of a public road by traffic or by some particular class of traffic is prohibited or is subject to some restrictions;
- (b) (i) The general shape and design of prohibitive and mandatory signs are illustrated by signs Nos. 15, 16 and 17. The dimensions and colours given in these illustrations shall apply except where otherwise specified.

- (ii) The circle in sign No. 16 is a hollow circle, the inner portion of which may be closed and painted white. The lettering on the rectangle in sign No. 16 shall be three inches high.
- (c) All signs denoting a prohibition or restriction shall be erected at the point at which their significance is applicable.
- (d) In urban areas the red circle and legend or the red circle and ground of these signs shall be illuminated, except where their significance does not apply during the hours of darkness.
- (e) In rural areas the red circle and legend of these signs shall be illuminated, except where their significance does not apply during the hours of darkness.
- (f) The following signs fall under this class —

No. 18 — No entry: Entry of all vehicles prohibited.

No. 19 — One way: Signifying the direction in which vehicular traffic shall proceed. The arrow may be shown to the left or right.

The "No entry" and "One Way" signs shall be interchangeable in application — that is, where a "One Way" sign is not visible to traffic from all directions it may be supplemented by a "No Entry" sign.

No. 20 — No parking: Used to indicate where parking of vehicles is prohibited at all times. The height of lettering shall be 12 inches minimum.

Where necessary this sign may be displayed on a similar disc, of not less than 16 inches diameter. Unless this sign is displayed with the signal face parallel to the lateral line of the public road, the legend shall be inscribed in a similar manner on the reverse of the sign.

No. 21 — A limited application of the "No Parking" sign indicating where parking is prohibited within certain limits. The height of lettering shall be 8 inches minimum for the numerals and  $\frac{3}{4}$  inch minimum for "a.m." and "p.m.". The days of the week on which the limited restriction applies may be inscribed on the sign, the height of lettering being  $1\frac{1}{2}$  inches minimum.

Where necessary this sign may be displayed on a similar disc of not less than 16 inches diameter, unless this sign is displayed with the signal face parallel to the lateral line of the public road, the legend shall be inscribed in a similar manner on the reverse of the sign.

No. 22 — Customs stop: To indicate that vehicular traffic must stop and not proceed until authorised to do so by a Customs official.

No. 23 — Speed limit: To indicate by means of a number the maximum rate of speed in miles per hour at which vehicular traffic may proceed. The height of lettering on this sign shall be 8 inches minimum.

No. 24 — Stop: To indicate that vehicular traffic must stop at and before crossing any stop line on the road surface as in sub-regulation (10) (e) provided and not proceed until it is safe to do so:

Provided, however, that where this sign is used in conjunction with a stop line which does not extend the full width of the traffic line nearest to the left-hand kerb,

## D.112

filtration, as in sub-regulation (10) (e) provided shall be permitted. The legend to this sign shall be 8 inches minimum height of lettering.

No. 25 — Stop: An alternative "STOP" sign having 5 inches minimum height black lettering on a yellow ground. The disc surmounting the sign shall be red.

No. 26 — Stop sign erected at a level crossing where traffic conditions warrant it. This sign has the same significance as sign No. 24. The height of the letters of the main legend shall be 8 inches minimum. The number of railway lines may be shown in 5 inches height of lettering.

No. 27 — Stop sign for scholar patrol, indicating, while it is suspended across the roadway by a member of a scholar patrol, that vehicular traffic must not pass such stop sign and shall remain stationary while it is displayed. Where a stop line is on the road surface vehicular traffic shall stop at such line. Sign to be used for directing the scholars and vehicular traffic at school approaches; the sign is portable, the disc being suspended on a light pole. The legend shall be black on a white grounds and shall be inscribed on both sides of the disc. Height of lettering shall be 4 inches minimum for "Stop" and 1½ inches minimum for other lettering.

In conjunction with a stop sign for a scholar patrol, a temporary danger sign similar to sign No. 77 bearing the inscription "Scholar Patrol Ahead" shall be placed where the scholars are to cross. If the roadway is more than thirty feet wide, the danger sign shall be placed in the centre of the road and in any other case on the left-hand side of the road for approaching vehicles. For the purpose of this paragraph the base of the triangle in sign No. 77 and the sides of the square bearing the legend shall be 24 inches and the reverse side of the sign shall be painted with alternate black and white diagonal strips 4 inches wide.

No. 28 — Yield Sign: To indicate the approach to an intersecting public road on which the traffic has the prior right of way. The triangle and disc of the sign shall be red. If a closed triangle is used, the centre shall be either white or yellow. The driver of a vehicle shall reduce the speed of such vehicle to not more than ten miles per hour before reaching the sign and shall yield the right of way to approaching vehicles on the intersecting public road.

No. 29 — No stopping: To indicate that vehicular traffic shall not stop within certain time limits over a certain length of public road. The legend

certain time limits over a certain length of public road. The legend "No Stopping" may be inscribed on the sign. The legend shall be black on a yellow ground. Height of lettering shall be 1½ inches minimum except for "a.m." and "p.m." which shall be ½ inch minimum.

No. 30 — "No Overtaking": To indicate that vehicular traffic shall not travel in one direction in greater numbers side by side than there are demarcated traffic lanes on that half width of the public road.

No. 31 — Compulsory Cycle Tract: To indicate that cyclists must use the special track reserved for them. The symbol shall be black on a red ground.

- (g) In addition to any sign hereinbefore mentioned, the signs detailed hereunder, indicating a restriction relating to traffic or to a particular class of traffic also fall in the category illustrated by sign No. 16 ;

Provided that the hollow circle shall be omitted on the "Keep Left" sign and may be omitted on any other sign erected on or at a traffic signal.

"Bicycles Only": To indicate that the use of the public road is precluded to traffic other than bicycles.

"Keep Left": To indicate that vehicles shall proceed only in a left-hand direction or shall keep to the left-hand side of some obstacle e.g. a traffic island. An arrow conforming with the dimensions of the arrow in sign No. 42, may be inscribed on the sign, directing persons to keep left.

"Motor Cars Only": To indicate that the use of the public road is precluded to traffic other than passenger-carrying vehicles the gross vehicle weight of which does not exceed 7,700 lbs.

"Motor Vehicles Only": To indicate that the use of the public road is precluded to traffic other than motor vehicles.

"No Animal-Drawn Traffic": To indicate that the use of the public road is precluded to animal-drawn traffic.

"No Bicycles": To indicate that the use of the public road is precluded to pedal cycles.

"No Herded Animals": To indicate that the use of a public road is precluded to herded animals.

"No Hooting": To indicate that the use of a hooter or similar warning device is prohibited.

"No Left Turn": To indicate that vehicular traffic shall not turn in a left-hand direction.

"No Motor Cars": To indicate that the use of the public road is precluded to passenger-carrying vehicles the gross vehicle weight of which does not exceed 7,700 lbs.

"No Motor Cycles": To indicate that the use of the public road is precluded to motor cycles.

"No Motor Lorries": To indicate that the use of the public road is precluded to goods-carrying motor vehicles.

"No Motor Vehicles": To indicate that the use of the public road is precluded to motor vehicles.

"No Right Turn": To indicate that vehicular traffic shall not turn in a right-hand direction.

## D.114

"No Turn": To indicate that vehicular traffic shall not turn either in a left-hand or a right-hand direction.

"No U Turn": To indicate that vehicular traffic may not turn around to face in the opposite direction.

Weight Limit: To indicate the limiting weight of a vehicle, whether laden or unladen, which may proceed over the defined section of a public road — e.g. "5 tons".

### De-restriction signs.

(6) (1) The dimensions and colour of de-restriction signs are illustrated and set out in sign No. 16 and sub-regulation (5) (b) (ii).

(2) The following signs fall under this class —

No. 32 — De-restriction Notice: To indicate that the particular restriction is raised. The diagonal cross shall be superimposed on the actual sign. The width of the line of the cross shall be  $\frac{1}{2}$  inch minimum and 1 inch maximum.

No. 33 — Example of the use of the de-restriction sign for a speed limit.

### Informative signs.

(7) (a) Informative signs are signs used for the guidance of traffic, to convey advance information in regard to the road, or to convey a request for courteous driving.

(b) The general shape and design of informative signs are illustrated by signs Nos. 34, 35, 36 and 37. The dimensions and colours given in these illustrations shall apply except where otherwise specified.

(c) The legend or the ground of Signs Nos. 38 to 49 (inclusive) and 53 to 55 (inclusive) shall be illuminated.

### Signs requiring a speed reduction for safety.

(d) The following signs shall be used to convey advance information regarding the public road and shall only be used for conditions requiring a reduction of speed for safety —

No. 38 — Curve: The arrow on the sign shall point to the right to indicate a curve in that direction.

No. 39 — Fork: Road forks to the left and right.

No. 40 — Fork: A road forks from the straight. The arrow indicating the road that forks from the straight shall be shown on the right if it runs in that direction.

No. 41 — Junction: A road coming into a road in the same direction of travel. The arrow on the sign shall be shown on the right or left as circumstances may require.

No. 42 — Junction: A road joining at right angles. The arrow pointing to the

side may show approximately the angle of the junction and shall be shown on the left or right as circumstances may require.

- No. 43 — T-Junction: A road running into another road at right angles or nearly at right angles. In most cases used for the junction with a major road.
- No. 44 — Sharp Turning to Right: The arrow on the sign shall point to the left to indicate a sharp turn in that direction.
- No. 45 — Steep descent to left.
- No. 46 — Steep descent to right.
- No. 47 — Road Narrows: To indicate an appreciable diminution of the roadway width.
- No. 48 — Over head Bridge: To indicate an overhead bridge, having a clearance height of less than 16 feet. The height of lettering shall be 5 inches minimum for the figures and 2 inches minimum for the lettering.
- No. 49 — Reverse Bend Winding to Right: The arrow on the sign shall be shown to the left to indicate a reverse bend winding in that direction.

#### Signs requesting courtesy or conveying information.

(e) The following informative signs shall be used to convey a request for courteous driving. These signs may be illuminated for better legibility at night —

- No. 50 — First-Aid Station: To indicate that there is in the neighbourhood a first-aid station organized by an officially recognised association. This sign shall be a red cross on a yellow ground encircled by a black ring; the mileage and an arrow may be added where necessary.
- No. 51 — Hospital: To indicate that the public road passes a hospital. This sign shall be a red cross on a yellow ground encircled by a black ring; the height of the letter "H" shall be 8 inches minimum and it shall be black on yellow ground.
- No. 52 — General: A sign bearing descriptive characters. The size of the sign is dependent upon the length of the description. The minimum dimensions shall be 18 inches in height and 18 inches in width; the height of lettering shall be 3 inches minimum.

Example of this sign —

"Cul-de-sac": To indicate that the public road runs to a dead end.

- No. 53 — Telephone: To indicate that there is a telephone in the neighbourhood.
- No. 54 — Filling Station: To indicate that there is a filling station within the distance indicated on the sign.
- No. 55 — Service Station: To indicate that there is a service station in the neighbourhood.

Nos. 56 and 57 — Parking: To indicate where parking for vehicular traffic is permissible for a limited period during certain hours e.g. "1 hour, 8 a.m. — 6 p.m."



## D.116

or for a limited period e.g. "45 min". These signs shall be rectangular and a minimum size of 15 inches by 9 inches. The legend shall be white on a blue ground. The height of lettering shall be 5 inches minimum for the letter "P", 3 inches minimum for the time limit figures, 2 inches minimum for the period of limit figures and  $\frac{3}{4}$  inch minimum for a.m. and p.m.

No. 58 — To indicate a pedestrian crossing the legend may be inscribed in a similar manner on the reverse of the sign.

No. 59 — Direction: To indicate the name of and mileage to a place. The legend shall be white on a black ground and may be inscribed in a similar manner on the reverse of the sign, provided that the board may be extended to permit the use of an arrow to indicate direction. The height of lettering shall be 4 inches minimum.

Nos. 60 and 61 — Direction: To indicate in advance the direction or distance to a place or places. The legend shall be white on a black ground and the height of lettering shall be 4 inches minimum.

No. 62 — Place Name: To indicate the name of a place, as, for example, a town. The legend shall be white on a black ground and the height of lettering shall be 6 inches minimum.

No. 63 — Descriptive: To convey information of historic, physical or general interest, as, for example a river name or bridge name. The legend shall be white on a black ground and the height of the lettering shall be 3 inches minimum.

No. 64 — Route Marker: A sign to indicate the specified route. The initial letter refers to the classified route. The letter P, K and W not to be in this sign. The legend shall be white on a black ground, which shall be rectangular and the height of the lettering shall be 5 inches minimum.

No. 65 — Safety Posts: Signs to indicate an obstruction, or the limits of the roadway where drivers of vehicular traffic might conceivably be in doubt as to the correct course to follow. The size of the plate shall be 24 inches in height by 6 inches in width. The signs shall be red and white and shall be illuminated. Where reflectors are used they shall be  $\frac{7}{8}$  inch minimum in diameter.

No. 66 — To indicate a stopping place for buses e.g. "Bus Stop": the legend shall be in black on a white ground the stopping place may be numbered.

No. 67 — To indicate the stages on bus routes e.g. "1st Stage". The legend shall be black on a white ground. Where the stage sign is erected on second or third class routes the legend shall be white on a black ground.

No. 68 — To indicate a rank for motor vehicles for hire, or other vehicles, "Rank for ..... Taxis, Trolleys". The legend shall be black on a yellow ground. The number of vehicles accommodated by the rank shall be inscribed on the signs in 3 inches minimum height of lettering.

No. 69 — Loading Zone: To indicate an area for use as a loading zone. The width of the sign shall be 3 inches minimum, the height of lettering shall be 2 inches minimum and the legend shall be black on a yellow ground.

#### **Combined signs.**

- (8) (a) A combined sign is a combination of two signs used to convey additional information or for greater clarity.
- (b) The combined signs are classified as danger signs, and prohibitive and mandatory signs, according to the respective surmounting sign.
- (c) Where it is considered that a warning should be conveyed in conjunction with an informative sign, a combined sign shall be used consisting of the informative sign surmounted by the hollow red triangle, sign No. 2. Examples of these combined signs are signs 3 to 12.
- (d) Where a prohibition is to be conveyed the informative sign shall be surmounted by a hollow red disc. An example of this sign is sign No. 22 — Customs Stop.

#### **Traffic-markings.**

- (9) (a) Traffic markings are devices, lines, patterns, words or colours embedded in the surface, applied or attached to the road surface, kerbing or adjacent object officially placed for the purpose of regulating, warning or guiding of traffic.
- (b) Traffic markings shall only be placed by an authority having jurisdiction with regard to the regulating, warning or guiding of traffic.
- (c) Traffic markings shall be coloured to contrast with the area immediately surrounding them, that is, on a concrete roadway a black colour may be used and, on a bituminous surface a white colour. Where a white colour is specified in the text it shall be read subject to the above qualifications.
- (d) The laying down of traffic markings shall, except in the case of pedestrian crossings at points, other than intersections, where a prescribed roadside sign or road traffic signal is erected, be permissive.

Provided, however, that in the case of stop streets, where the surface of the roadway is capable of being marked with a stop line as in sub-regulation (10) (e) provided it shall be so marked. Traffic markings may be used to supplement the information conveyed by roadside signs: Provided, however, that parking lines, in the circumstances mentioned in sub-regulation (10) (j), barrier lines, centre lines, lane lines and pedestrian crossings may be used without an accompanying roadside sign.

- (e) Subject to the provisions of sub-regulation (10) (e) hereof, a minimum of 75 per cent of the area of a full line or mark shall be considered a full line or mark.

#### **Lines**

- (10) (a) At a pedestrian crossing controlled by a road traffic signal or any other authorised control, a pedestrian shall not enter such crossing except in accordance

## D.118

with the indications of such traffic signal or other authorised control. At a pedestrian crossing not controlled by a road traffic signal or any other authorised control the driver slowing down or stopping if necessary to so yield, to a pedestrian crossing the roadway within a pedestrian crossing when the pedestrian is upon the half of the roadway upon which the vehicle is travelling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

No pedestrian shall suddenly enter a pedestrian crossing and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield as contemplated above.

Whenever any vehicle is stopped at a pedestrian crossing to permit pedestrians to cross the roadway, the driver of any other vehicle approaching from the rear shall not pass such stopped vehicle.

- (b) A barrier line shall be a continuous white line of 4 inches minimum width and shall be laid down to convey a definite requirement or warning, e.g. short horizontal or vertical sight distance, course to be taken at certain hazards, etc.

A barrier line laid down along the centre or approximate centre of a roadway shall not be crossed or straddled by vehicular traffic travelling in either direction on such roadway.

A barrier line may also be laid down in combination with a centre or lane line at a distance of 2 inches minimum and 6 inches maximum from it, and, if so employed, shall not be crossed or straddled by vehicular traffic if such line is on the same side of the centre or lane line as such traffic when travelling on the correct side of the road.

- (c) A centre line shall be a broken white line of 4 inches minimum width, used to mark the middle, or approximate middle, of the roadway. Sections of a centre line may be used for regulatory purposes and control at intersections.
- (d) A lane line shall be a broken white line of 4 inches minimum width and shall be used for guidance of traffic by the demarcating of traffic lanes.
- (e) A stop line shall be a continuous white line of 6 inches minimum width. It shall extend at least halfway across the roadway on the lefthand side for approaching traffic and shall be sited between the centre line and the kerb line. A stop line shall only be laid down at points where authorised control is enforced by a road-side sign or by a police or traffic officer on point duty. Where filtration against an authorised control is allowed the stop line shall not extend the full width of the traffic lane nearest to the left-hand kerb.
- (f) Pedestrian crossing lines shall be continuous white line, of 4 inches minimum width. They shall be laid down to form a lane of 6 feet minimum width across the entire roadway only at or immediately adjoining intersections.
- (g) Pedestrian crossings, consisting of a distinctly marked pattern, as shown in the Appendix (sign No. 70), may be laid down at points other than intersections. At such points pedestrians shall have the prior right of way to the use of the roadway only when the crossing is controlled by a road traffic signal or any other authorised control.
- (h) Parking lines shall be of 4 inches minimum width. Where parking is totally prohibited the line demarcating the area shall be a continuous yellow line. Where parking

is controlled, the parking lines shall be white and shall clearly indicate the parking bays.

- (i) Parking shall always be parallel to the kerb line unless angle parking is defined and demarcated by means of white parking lines. Angle parking where defined by white lines shall be parallel to such white lines.
- (j) Parking lines shall be laid down only where a road traffic sign of a prescribed type is displayed and visible in the vicinity:

Provided that sign need not be displayed at a parking bay which is controlled by a parking meter erected or placed on the kerb, footpath or side-walk adjoining such parking bay:

Provided further that where parking is totally prohibited, continuous yellow lines may be used instead of, or in conjunction with, no parking signs.

#### **Other Signs and Markings**

- (11) (a) The only wording to be used for traffic markings shall be wording required for exercise of traffic control.
- (b) The letters shall be white; in the case of no parking areas they shall be yellow.
- (c) "Stop", where laid down, shall be in the line of vision of oncoming traffic in the left-hand width of roadway immediately before a stop line. The height of the letters shall be 3 feet minimum.
- (d) "No Parking" may be laid down, but only within a demarcated non-parking area or on the kerb. The height of the lettering shall be 4 inches minimum.
- (e) Loading zones may be demarcated by means other than by line marking; either the roadway being marked in wording or traffic sign of the type prescribed in the Appendix sign No. 69 being erected.
- (f) Markings may be made in the roadway at approaches to dangerous areas or on physical obstructions in or near the roadway, such as kerbs of traffic island overhead bridge supports and walls of bridges, culvert headwalls, guard rails, poles, trees, rocks, etc., and should be in alternate bands of black and white.
- (g) Where necessary, arrows may be laid down for directional marking in the roadway. Where a line of arrows is marked on the roadway to indicate a route direction, such line shall be white and shall be located in the centre of the traffic lane.

#### **Road Traffic Signals**

- (12) A road traffic signal is –
- (a) a road traffic sign embodying a light which flashes or otherwise changes, or having moving parts, by which traffic is warned or is directed to take some specific action (e.g. robot or traffic control light signal) ; or
- (b) a road traffic sign embodying a light and used to indicate the limits of the roadway or to illuminate a traffic island (e.g. a bollard).

## D.120

### Robots or traffic control light signals

- (13) (a) Robots or traffic control light signals shall be erected by the Minister or a local authority.
- (b) The following requirements shall be observed—
- (i) There shall be at least two signal faces, each consisting of at least three circular lenses, for the control of traffic entering an intersection from any one direction. At least one signal face shall be at a height of 7 feet 6 inches minimum and 10 feet maximum, measured from the level of the centre of the roadway to the centre of the green lens. If only one signal face is placed at the height aforementioned, the face shall be situated on the righthand side of approaching traffic and on the far side of the intersection. If signal faces are suspended over the roadway, the height from the road surface to the underside of the signal housing shall be 16 feet minimum and such signal housing shall be securely fixed to avoid undue movement.
  - (ii) The three prescribed lenses shall be red at the top, yellow or amber below the red, and green at the bottom, arranged vertically and not more than 6 inches apart. When special arrows are embodied they shall be green and shall be either immediately below the three lenses or to the left of them. They shall be in the following vertical order, beginning at the top: Straight through arrow, pointing upwards; right turn arrow; left turn arrow.
  - (iii) The red lens shall have the word "stop" marked on it in small black letters; no other lettering shall appear on the lenses.
  - (iv) The diameters of the three lenses shall be 8 inches minimum. The special arrow lens shall show an arrow so designed that it will be distinctly visible at a distance of 200 feet.
  - (v) Each lens shall be independently lit by a clear traffic lamp of not less than 40 watt capacity.
  - (vi) Each lens, reflector and hood or visor shall be of such a design as to render the lens when illuminated, clearly visible to the oncoming traffic under all light and atmospheric conditions except dense fog.
  - (vii) The design shall be such as to prevent, as far as possible, any signal face from being seen from a direction to which its indications do not apply.
  - (viii) The centrally suspended signal head assembly shall not be used.
  - (ix) Whatever position is adopted for the erection of a robot at an intersection, the type shall, as far as possible, be uniform throughout the whole length of the street.
  - (x) The light sequence shall be; 1 Red 2 Green 3 Yellow or Amber; the time cycle shall depend on the particular intersection, but shall in any case be not longer than is required to accommodate the necessary movement of traffic.
  - (xi) At certain intersections the red and green lights may not be warranted during certain hours; in such cases the yellow or amber light shall be shown alone. This refers to the fixed cycle robot or traffic control light signal.

- (xii) Where it is considered desirable on account of advertising signs or any other reason, a screen may be erected behind the signal face so as to throw the signal head into relief for oncoming traffic. The colour of the screen should normally be white, but will depend on the background of the signal head.
- (xiii) The significance of the light indications of a robot shall be –

Red –

- (a) Vehicular traffic facing the signal shall stop before entering any marked pedestrian crossing on the near side of the intersection, or, if there is no marked pedestrian crossing, then before entering the intersection and shall remain standing until green is shown along: Provided that if a green arrow lens is illuminated at the same time a driver of a vehicle may cautiously enter the intersection to make the movement permitted by the arrow subject to prior rights of pedestrians and vehicles proceeding on a regular indication.
- (b) No pedestrian facing such signal shall enter the roadway.

Green –

- (a) Vehicular traffic facing the signal may proceed straight through or turn to the left or right, subject to any restricting road traffic sign, but shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or a pedestrian crossing at the time such signal is exhibited.
- (b) Subject to the provisions of sub-paragraph (xiv), pedestrians facing the signal may proceed across the roadway within any pedestrian crossing.

Yellow or Amber –

- (a) Vehicular traffic facing the signal shall stop before entering any marked pedestrian crossing on the near side of the intersection or, if there is no marked pedestrian crossing, then before entering the intersection unless, when the yellow or amber first appears after the green, the driver is so close to the intersection that such stop cannot safely be made he may in such circumstances and those referred to in sub-paragraph (xi) proceed cautiously through the intersection.
- (b) No pedestrian facing such signal shall enter the roadway.

Green Arrow –

Vehicular traffic facing the signal in their proper traffic lanes may proceed or turn in the direction permitted by the arrow, subject to prior rights of pedestrians and vehicles proceeding on a regular indication.

- (xiv) Pedestrian signals may be erected if necessary. Where a time cycle phase for the control of pedestrians is introduced at an intersection controlled by a traffic control light signal consisting of a yellow or amber-coloured cross and a red cross may be used. The yellow or amber-coloured cross signal shall signify that pedestrians may cross and the red cross signal that pedestrians shall stop and not enter the intersection.

## D.122

### Flashlights (signs Nos. 72 and 73)

- (14) (a) Flashlights with a periodicity of  $\frac{1}{2}$ -1 second shall be erected only for the purpose of drawing attention to a particular road traffic sign of the danger or prohibitive type. Where it is not possible to mount the lens in the road traffic sign it shall be mounted immediately below the sign.
- (b) The lens shall be circular and 6 inches minimum diameter and shall be lit by a clear traffic lamp of not less than 40 watt capacity. The colour of the signal, other than the signal of a flashlight erected at a railway level crossing, shall be yellow or amber and no legend shall appear on the lens.
- (c) The signal shall be of such a design as to render the lens clearly visible to oncoming traffic and prevent, as far as possible, the signal from being seen from a direction to which its indication does not apply.
- (d) Only one flashing light shall be displayed in any one direction by one road traffic sign.
- (e) The flashlights at railway crossings shall be as at present specified and erected by the Rhodesia Railways and when these flashlights are operating they shall have the same force and effect as the "Stop" sign No. 24 or 25 i.e. to indicate that vehicular traffic must stop and not proceed until it is safe to do so. The colour of the signals of such flashlights shall be red.

### Bollards (sign No. 74)

- (15) (a) Bollards of a suitable type may be erected for purposes of illumination and for the guidance of traffic. A bollard shall be sited in such a position that approaching vehicular traffic shall pass it on the left. It shall always be erected on physical obstruction and at least two feet of the height shall be illuminated by indirect or reflected lighting as set out in sub-regulation (3)(b). The height of the bollard shall be at least 3 feet above the base on which it is mounted and the upper edge of the illuminated portion shall not be less than 3 feet above the level of the centre-line of the roadway and the lower edge not more than 18 inches above the level of the centre-line of the roadway. The width of the illuminated surface facing oncoming traffic shall not be less than 5 inches.
- (b) The head-piece of the bollard may be illuminated as set out in sub-regulation (3)(b) and designed to embody the legends "Keep Left", "Cross here" or any prescribed legend supporting a road traffic sign on the lefthand side of the road.

### Temporary signs

- (16) (a) Where applicable, and where it is found necessary, any of the ordinary road traffic signs may be erected as temporary signs; the dimensions may be varied to suit the individual requirements. Temporary signs shall be removed immediately their indication ceases to be applicable.
- (b) The following special signs are prescribed as temporary signs —

No. 75 — "Road Closed": To indicate that the public road is closed to traffic while the sign is displayed. The size of the rectangle shall be 30 inches minimum length, and the width of plate of the hollow circle shall be 4

inches minimum. In addition an advance warning sign of the type of sign No. 76 may be used; the legend may be varied to suit individual requirements e.g. "Caution Drive Slowly". The legend shall be black on a yellow ground and the height of the lettering shall be 4 inches minimum.

Sign No. 75 shall be erected on a barrier which shall, as far as possible, be coloured white and at least 4 feet in height. It shall extend the full width of the closed portion of the road and shall have at least three red signal lights displayed to oncoming traffic, or shall be suitably illuminated. The illumination shall be at a height of 1 to 4 feet above the roadway.

No. 76— "Detour Ahead": To indicate that a temporary road deviation has been made and the arrow indicating which side of the roadway the deviation is to be looked for. The size of the sign shall be the same as for Sign No. 75. The legend shall be in black on a yellow ground and the height of the lettering shall be 4 inches minimum. The sign shall be erected 100 feet from the barrier in an urban area and 500 feet from the barrier out side an urban area.

No. 77— 78 Temporary traffic control signs: To control traffic where the temporary restriction of the movement of traffic is necessary. These signs may be made to face alternately "Stop" on one side and "Go" on the other and may be either hung from a horizontal pole or fixed to a vertical pole. For sign No. 77 the legend shall be black on a red ground and for sign No. 78 the legend shall be yellow on a green ground.

No. 79— Temporary cattle crossing sign: To indicate that cattle are crossing or about to cross a public road. The size of the rectangle shall be 24 inches minimum width and 24 inches minimum length. The cross shall be black and of the same size as the cross on sign No. 51. The lettering shall be black and 4 inches minimum height on a yellow background.

The signs shall only be erected when cattle are about to enter the roadway and shall be placed in the centre of the roadway one sign each side of and not less than 300 feet from the point of crossing. Immediately after the crossing is completed, these signs shall be removed from the roadway and placed out of sight of traffic.

(c) "Portable Signs"

- (i) The owner of every vehicle, the tare weight of which exceeds 5,000 pounds, shall provide a warning device which shall be carried at all times with such vehicle and which sign shall consist of a solid red reflective equilateral triangle, the back whereof shall be black and having sides of not less than twelve inches. Such warning device shall be so constructed that when it is put into position as prescribed in sub-paragraph (iii) it will not readily be dislodged by wind.
- (ii) where such a vehicle as described in sub-paragraph (i) hereof is used to draw a trailer or trailers, there shall be carried in addition such warning device as is referred to in sub-paragraph (i) hereof in respect of each such trailer.
- (iii) If, at night, such a vehicle, including a vehicle drawing a trailer, is stationary on any road except in an area set aside for the stopping of vehicles, in circum-



#### D.124

tances beyond the control of the driver of such vehicle, and the speed limit applicable to such road is greater than forty miles per hour, the driver of such vehicle shall place to the rear of such vehicle at a distance of not less than one hundred feet and not more than one hundred and fifty feet, measured from the rearmost point of such vehicle or trailer, as the case may be, on the carriageway and on the same side of the carriageway on which such vehicle is stationary and facing backwards in a vertical or as near a vertical position as possible a warning device as prescribed in sub-paragraph (i).

- (iv) If a trailer drawn by such a vehicle is detached from such vehicle and is, at night stationary in the circumstances mentioned in sub-paragraph (i) hereof, the provisions of such paragraph shall apply to such trailer.
- (v) If such vehicle as described in sub-paragraph (i) hereof is not equipped with the warning device or warning devices prescribed in sub-paragraph (i), the owner of such vehicle shall be guilty of an offence.
- (vi) If, when such a vehicle or trailer as described in sub-paragraphs (i) and (ii) is stationary on any road in the circumstances mentioned in sub-paragraph (iii) of this section the warning device prescribed in sub-paragraph (i) has not been placed in the prescribed position, the driver of such vehicle shall be guilty of an offence.

#### Matters affecting road traffic signs generally

(17) (a) Where a colour is specified in these regulations the shade of colour to be used in the manufacture of road traffic signs shall be, as near as practicable as standardized by the British Standard Institution schedule of colours for ready-mixed paints No. 381 C as follows--

Red: Signal Red No. 37

Yellow: Lemon No. 55

Blue: Traffic Blue No. 69

Green: Traffic Green No. 67

The shade of colour of the lenses on the traffic control light signals may be varied in some instances to increase the signals value when the background of the signal head is unsuitable for the specific shade of colour.

- (b) Depending on the actual siting and unless otherwise stated, road traffic signs shall be erected at a 2 feet 6 inches minimum height and 8 feet maximum height, measured from the level of the centre-line of the roadway to the bottom of the sign. Where two signs are superimposed, the limiting height shall apply to the lower sign.
- (c) Where standards and posts are used to bear road traffic signs, they shall be marked in alternate black and white horizontal bands of 9 inches minimum and 12 inches maximum height except that standards bearing parking signs and signs Nos. 66, 67 and 68 need not be painted or marked in this manner. The width of the bands shall be consistent on each post.
- (d) Unless specifically stated, the illumination of road traffic signs shall be optional where public roads are adequately lighted. Where reflector buttons are used, they shall be of a suitable type.

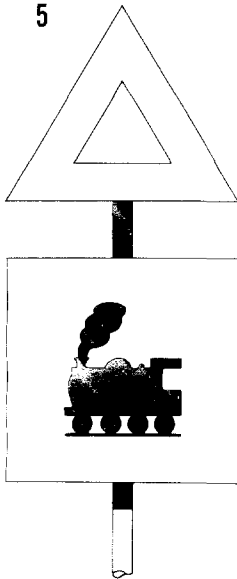
- (e) All roadside signs, except where otherwise stated shall be displayed on the left-hand side of a public road to face oncoming traffic and within 6 feet from the edge of the roadway or kerb line. Additional signs may be displayed in other positions for better visibility. Within a restricted zone confirmatory prohibitive signs may be erected where necessary and those signs may be double-sided.
- (g) Signs conveying advance information or warning, outside an urban area, shall be located at approximately 500 feet from the obstacle to which they refer, with limits of 350 feet and 800 feet. For very exceptional circumstances these limits may be departed from. Inside an urban area these signs shall be erected within 200 feet of the obstacle to which they refer.
- (h) Signs of Class (a), (b), (c), and (d), shall unless they are double-sided be erected so that the signal face makes an angle of approximately  $80^\circ$  to the centre-line of the roadway. Direction signs (No. 59) shall be erected at different levels on the post, and, where possible, at an angle of  $80^\circ$  to the centre-line of the roadway as long as this does not lead to confusion as to the direction to be followed. They shall be located on the far side of an intersection, or in advance of an intersection, and where conditions warrant it they may be placed on both sides of the road. The parking signs may be erected parallel to the lateral line of the road. Outside urban areas signs shall not be erected on the same road within 100 feet of each other.
- (i) (i) Where a private organisation is authorised to erect signs and to display a badge on the sign, this badge shall not be extraneous to the specified outline of the sign except in the case of signs No. 59, 62 and 63 and direction and descriptive signs. In such cases it shall, where possible, be in immediate proximity to the junction of the sign with the post and contained in an area not exceeding 10 per cent of the area of the signal face. In all other cases the badge may be placed where space is available on the plate, preferably in a corner, but the nearest edge of the badge shall not be more than 4 inches from the edge of the plate.
- (ii) The colour of the badge and its immediate back-ground shall conform to the legend and background of the particular sign, except where it is extraneous or where it is displayed on a colour which bears no legend on the sign itself; in such cases the choice of colour is left to the organisation.
- (j) (i) All legends appearing on signs shall be clear cut in outline so as to be easily distinguishable.
- (ii) Where descriptive lettering or numerals appear on a road traffic sign they shall be of the rounded type; the thickness of the stroke of the character shall not exceed one-sixth of the height of the character. The central strokes of "M" and "W" shall be pointed and for all other characters except the letter "I" and figure "1" the width shall, as far as possible vary between 50 per cent and 95 per cent of the height of the letter. No legend other than that specified in these regulations for road traffic signs shall appear on any sign or on the post bearing a road traffic sign.
- (iii) Examples of the standard and compressed lettering are shown in the Appendix.
- (iv) The reverse of all signs shall, unless they are double-sided, be coloured black and the colour on the signal face shall be carried over the edges of the plate.



## DANGER SIGNS

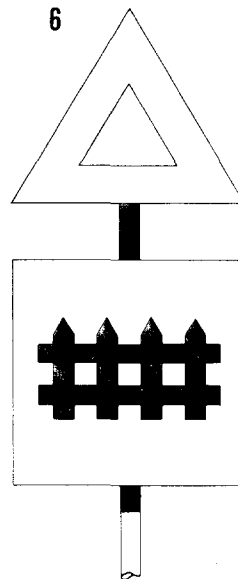


5



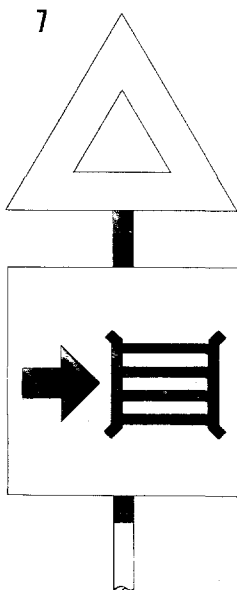
UNGUARDED  
LEVEL CROSSING.

6



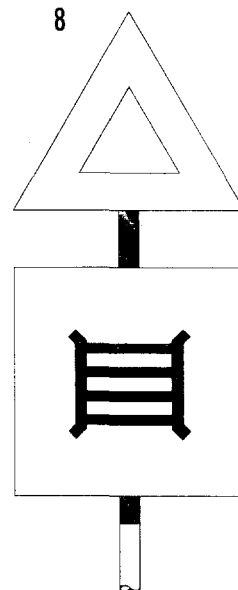
GATE OR LEVEL  
CROSSING BARRIER.

7



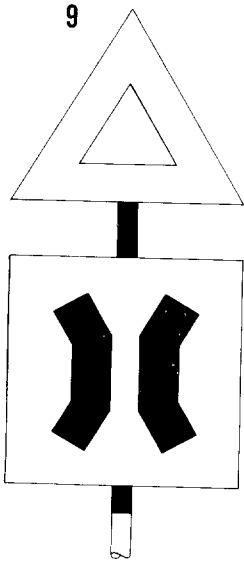
GATE AND  
MOTOR GATE.

8



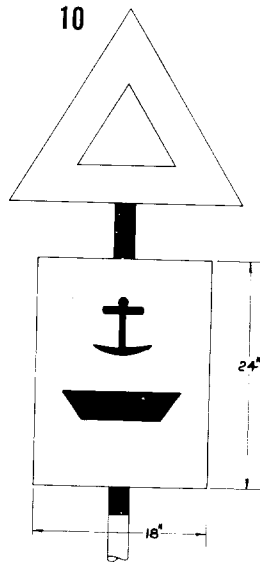
MOTOR GATE.

9



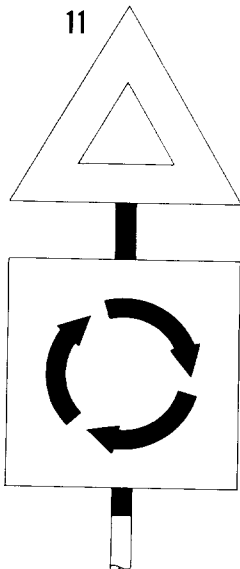
NARROW BRIDGE.

10



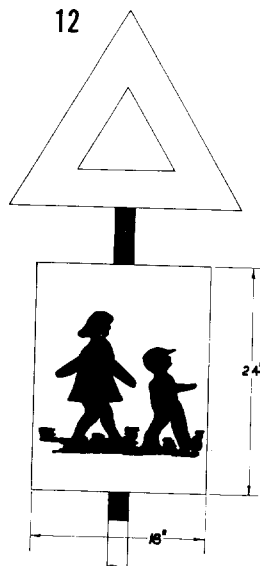
FERRY.

11

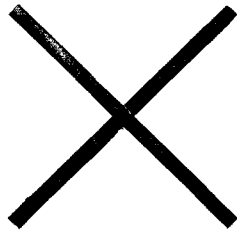


TRAFFIC CIRCLE.

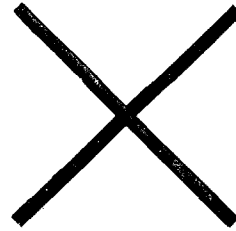
12



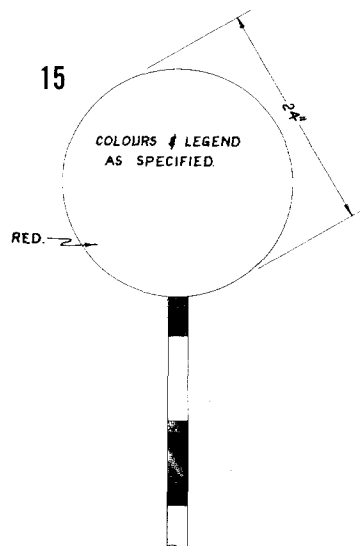
CHILDREN.



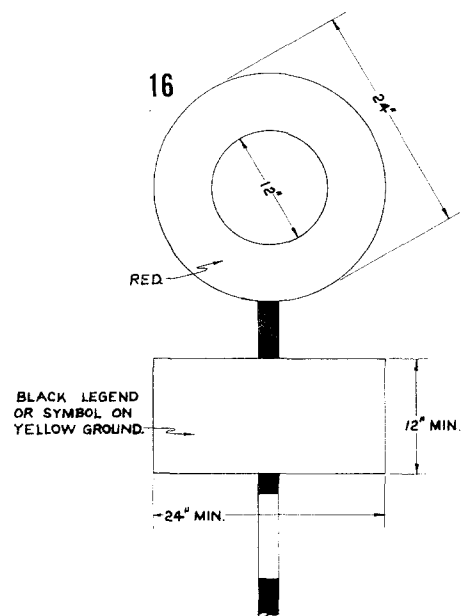
LEVEL CROSSING.



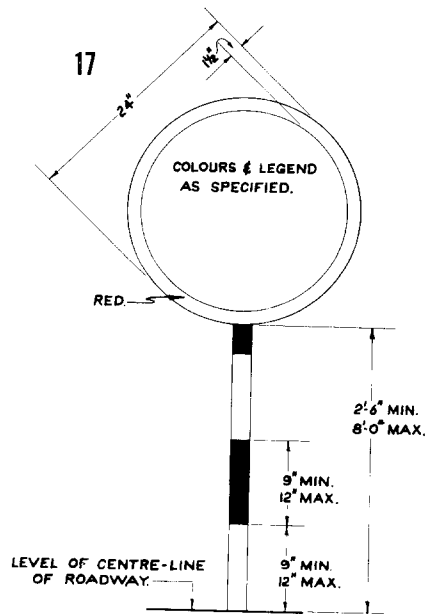
LEVEL CROSSING WITH  
FLASHING LIGHTS.



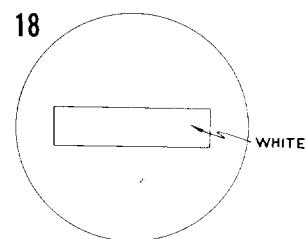
SPECIMEN.



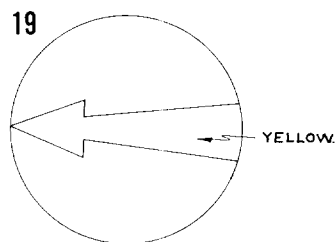
SPECIMEN.



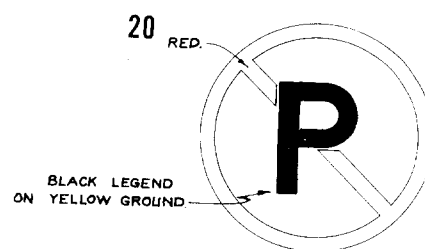
SPECIMEN.



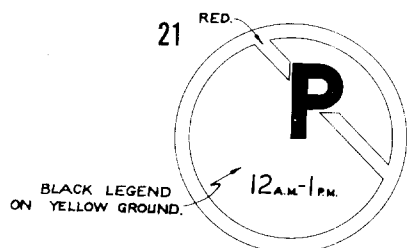
NO ENTRY.



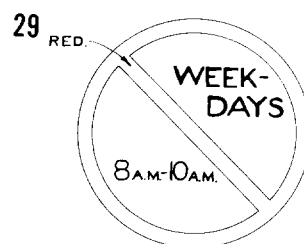
ONE WAY.



NO PARKING.

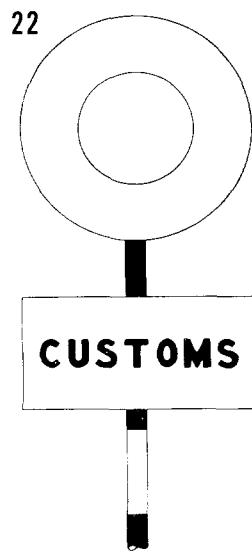


LIMITED NO PARKING.

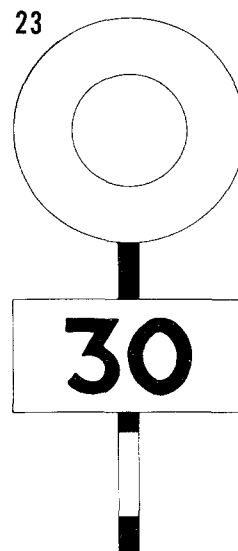


NO STOPPING.

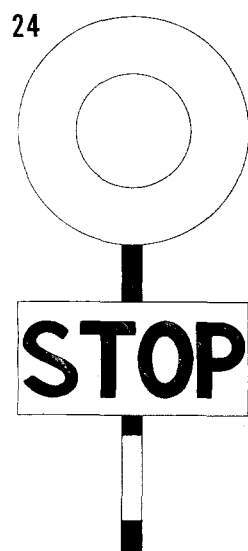




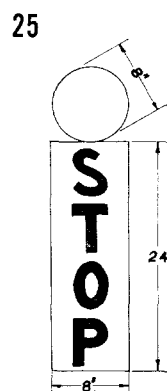
CUSTOMS STOP.



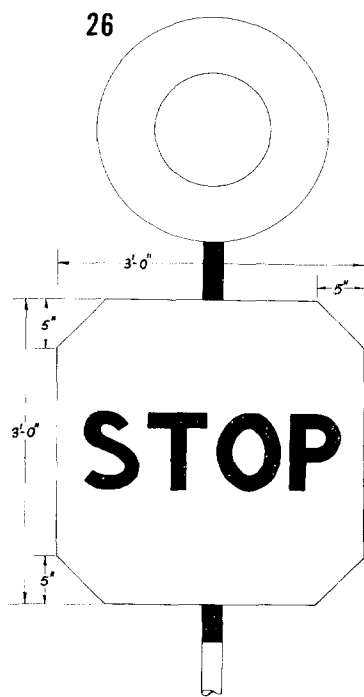
SPEED LIMIT.



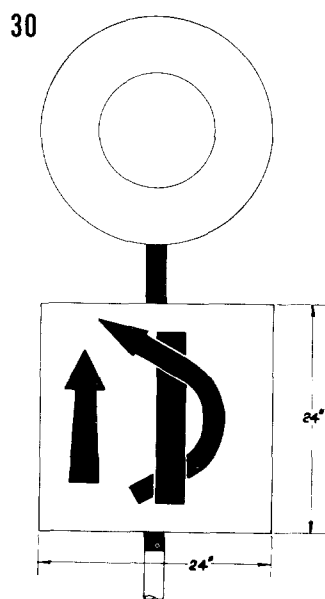
STOP SIGN.



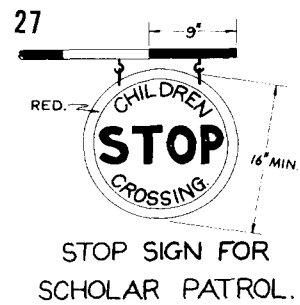
ALTERNATIVE  
STOP SIGN.



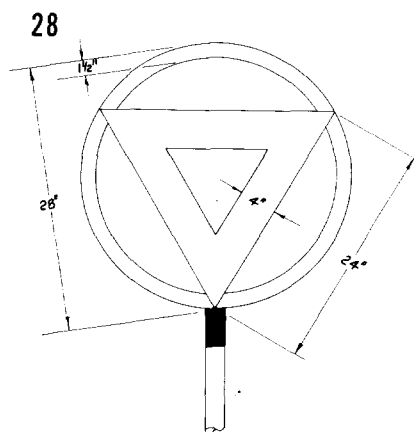
LEVEL CROSSING  
STOP SIGN.



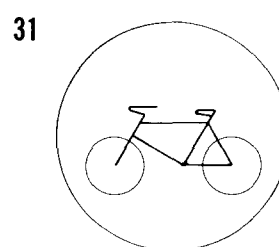
NO OVERTAKING.



STOP SIGN FOR  
SCHOLAR PATROL.

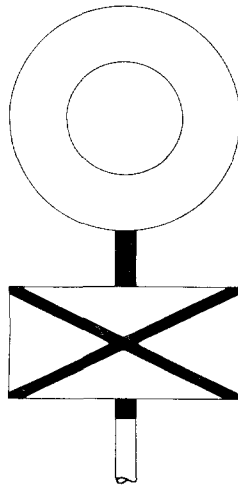


YIELD SIGN.



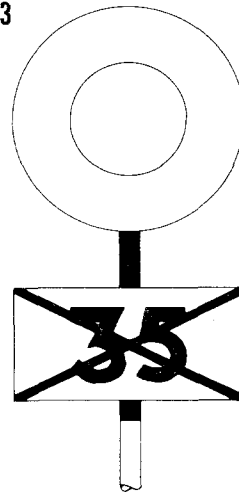
COMPULSORY  
CYCLE TRACK.

32



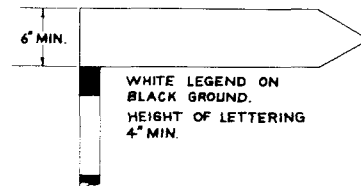
DE-RESTRICTION.  
NOTICE.

33



SPEED  
DE-RESTRICTION.

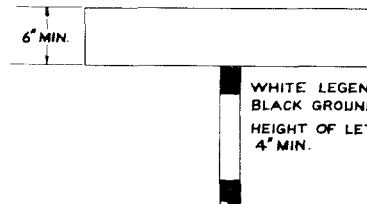
35



WHITE LEGEND ON  
BLACK GROUND.  
HEIGHT OF LETTERING  
4" MIN.

SPECIMEN.

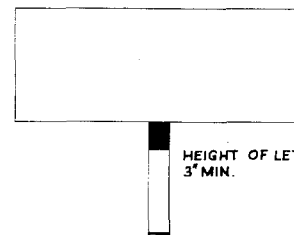
36



WHITE LEGEND ON  
BLACK GROUND.  
HEIGHT OF LETTERING  
4" MIN.

SPECIMEN.

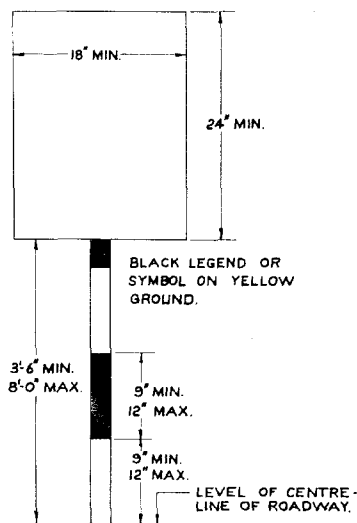
37



HEIGHT OF LETTERING  
3" MIN.

SPECIMEN.

34



BLACK LEGEND OR  
SYMBOL ON YELLOW  
GROUND.

3'-6" MIN.  
8'-0" MAX.

9" MIN.  
12" MAX.

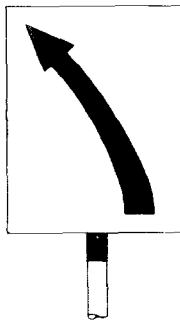
9" MIN.  
12" MAX.

LEVEL OF CENTRE-  
LINE OF ROADWAY.

SPECIMEN.

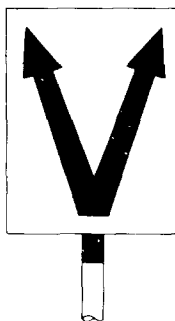
# INFORMATIVE SIGNS

38



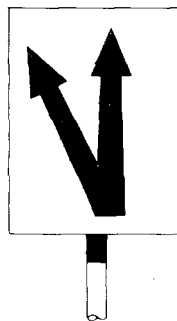
CURVE.

39



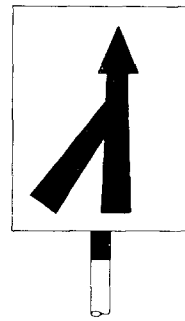
FORK.

40



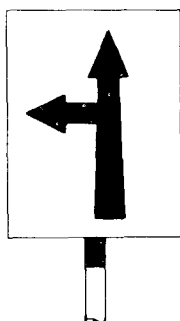
FORK.

41



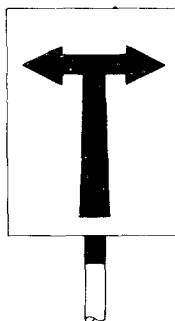
JUNCTION.

42



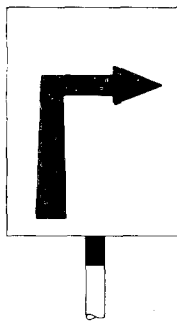
JUNCTION.

43



T-JUNCTION.

44



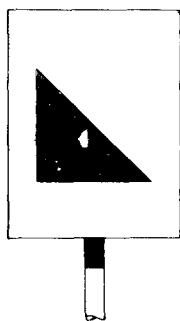
SHARP TURNING  
TO RIGHT.

45



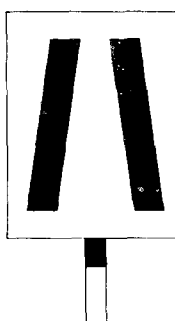
STEEP DESCENT  
TO LEFT.

46



STEEP DESCENT  
TO RIGHT.

47



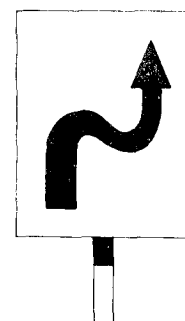
ROAD NARROWS.

48



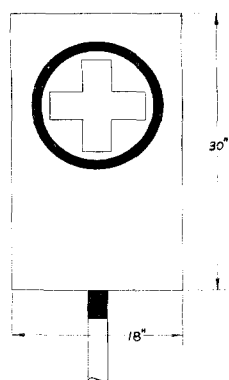
OVERHEAD  
BRIDGE.

49



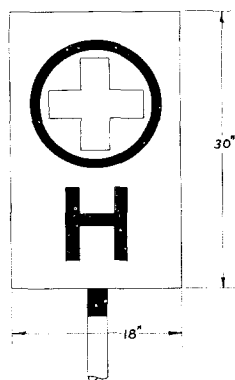
S-BEND WINDING  
TO RIGHT.

50.



FIRST AID.

51



HOSPITAL.

52



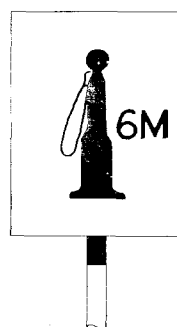
GENERAL.

53



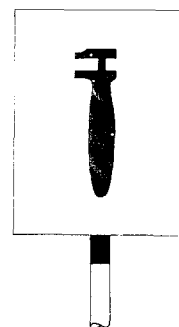
TELEPHONE.

54



FILLING STATION.

55



SERVICE STATION.

56



PARKING.

57



PARKING.

58



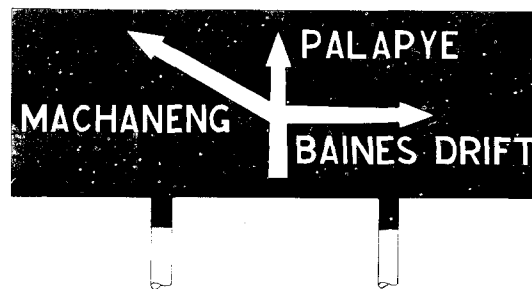
PEDESTRIAN  
CROSSING.

59



DIRECTION.

60



DIRECTION.

61



DIRECTION.

62



PLACE NAME.

63



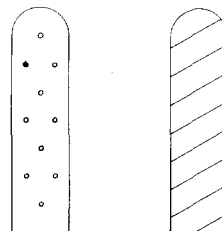
DESCRIPTIVE.

64



ROUTE  
MARKER.

65



SAFETY POSTS.

66

**BUS STOP**  
**Nº**

67

**2<sup>ND</sup> STAGE**  
5" MIN.  
12" MIN.

68

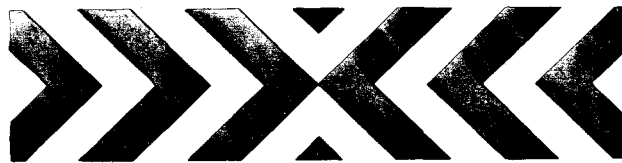
**RANK**  
**FOR**  
**6**  
**TAXIS**

69

**LOADING**  
**ZONE**

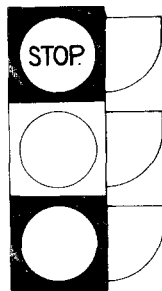
70

**TRAFFIC MARKINGS**



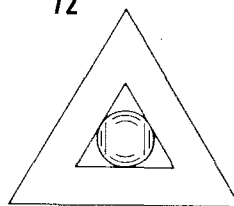
**HERRINGBONE PEDESTRIAN CROSSING.**

71



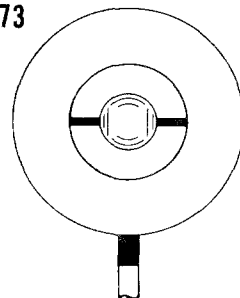
**ROBOTS.**

72



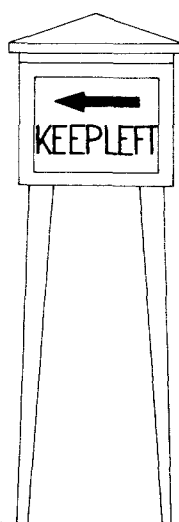
**DANGER WITH**  
**FLASHLIGHT.**

73



**PROHIBITIVE WITH**  
**FLASHLIGHT.**

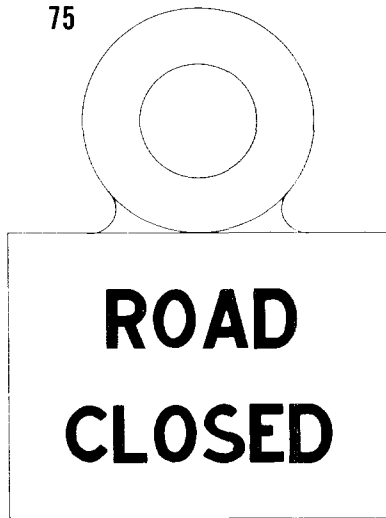
74



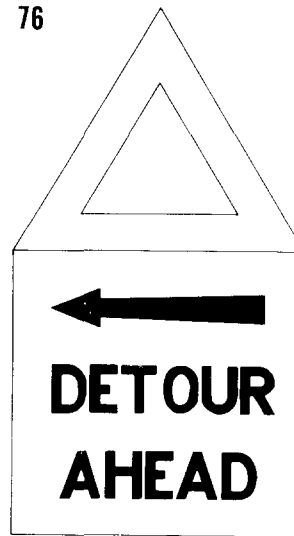
**BOLLARDS.**

TEMPORARY SIGNS

75



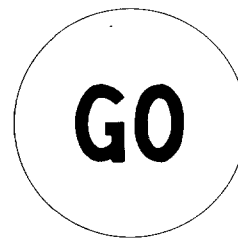
76



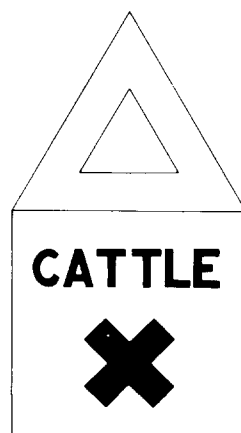
77



78



79







## SCHEDULE 1

## ROAD TRAFFIC REGULATIONS, 1966

MOTOR VEHICLE APPLICATION FOR NEW/TRANSFER OF LICENCE  
AND/OR

## REGISTRATION CERTIFICATE

(Sections 16(2), 19(1), 36(2) and 37(3) )

N.B. If RENEWAL Licence is required, use Form REVENUE 1031 YEAR/PERIOD ENDING  
1st March,

## 1. Name of Owner (Capital Letters)

Surname .....

Christian Names .....

Address (in case of person, residential address)

.....

.....

Do you reside within the area of a Township .....

(Answer "Yes" or "No")

If the answer is "Yes" state its name .....

## 2. In case of newly acquired motor vehicle, state —

From whom acquired .....

Address .....

Date acquired .....

Certificate of Transfer of Ownership and Identification Cards (if any) must be pro-  
duced or surrendered as required.

## 3. If vehicle previously licensed outside Botswana —

Office and Territory in which previously licensed —

.....

Date vehicle brought into Botswana .....

Previous Registration Mark and No. ....

4. Purpose for which vehicle is used (state Private, Hire, Business, Trade, Farming  
etc. as case may be)

.....

I declare that the particulars furnished above and on the back hereof are true  
and correct.

Signature of Owner .....

Particulars of the vehicle to be registered and licensed should be furnished on the  
back hereof.

## PARTICULARS OF MOTOR VEHICLE

Present Registration Mark and No. ....

If an articulated vehicle — Present Registration Mark and No. of other unit .....

Mark	Country of Origin	Tare Weight	H.P	Number of Cylinders

Model and Year .....

Make an X in the space hereunder which refers

Description —

Car .....	Truck Tractor.....
Bus .....	Tractor, Farm.....
Lorry/Truck.....	Tractor Other.....
Panel Van .....	Trailer, 2 Wheels.....
Motor Cycle Solo .....	Trailer, 4 Wheels.....
Motor Cycle Other.....	Trailer, More than 4 Wheel.....
Semi-trailer 2 wheel .....	Semi-Trailer 4 wheels.....
Semi-trailer more than 4 wheels .....	Other .....

How driven —

Petrol	Crude Oil	Power Paraffin	Steam	Electricity	other

Purpose —

Private	Hire	Business

Class (cars only) —

Two-seater	Touring	Sedan

## New Licences only —

New Vehicle (First Registration  
only.....)

Used Vehicle (First  
Registration) in  
District.....

## Transfers only —

Transfer of licence to New Vehicle.....

Transfer of licence to Used Vehicle.....

Transfer of licence from Previous Owner.....

If Transfer from previous owner is required, state Registration Mark and No. at present on vehicle.....

If transfer of licence to new or used vehicle is required furnish following particulars of previous vehicle—

Make.....

Tare Weight.....

H.P. ....

Description (insert Car, Bus, etc.) .....

Registration Mark and No. ....

## Ownership of Vehicle —

Farming or Business .....

Individual or Partnership Business .....

Company or Co-operative .....

Private Person.....

Other (specify) .....

D.130

SCHEDULE 2

CERTIFICATE OF REGISTRATION

in respect of motor vehicle, particulars  
of which appear hereunder, and

**LICENCE FOR MOTOR VEHICLE**  
(Sections 18(1), 21(1), 24(1) )

For the period ending ~

Date Stamp.

1st March, 19

Issued to -

Owner .....

Address .....

.....

District within which area the

Licensee resides .....

Amount paid, receipt of which is hereby acknowledged -

Rand .....

Cents .....

REGISTRATION FEE R. ....

Penalty R. ....

LICENCE DUTY R. ....

Penalty R. ....

Transfer

ADDITIONAL LICENCE

DUTY R. ....

Total R. ....

If TRANSFER is granted without payment of additional fees, endorse "Free" under  
"Amount Paid"

MOTOR VEHICLE LICENSED -

Registration Mark and No. ....

## SCHEDULE 3

**MOTOR VEHICLE APPLICATION FOR RENEWAL OF LICENCE***(Section 19 (4) )*

N.B. If NEW/TRANSFER licence and Registration Certificate is required, use Form Revenue 1032

YEAR/PERIOD ENDING 1st March, 19

1. Name of Owner (Capital Letters)

Surname .....

Christian Names .....

Address (in the case of persons residential address)

.....

.....

Do you reside within an area of a township .....

(answer "Yes" or "No")

If the answer is "Yes", state its name .....

2. In case of a truck-tractor to be licensed in conjunction with a semi-trailer (i.e. an articulated vehicle), state --

Registration mark and Number of semi-trailer .....

3. Purpose for which vehicle is used (state Private, Hire, Business, Trade, Farming etc. as case may be) .....

4. In the case of Public Motor Vehicle state --

No. and Date of Certificate  
of Fitness .....

Number of passengers which vehicle certified to convey  
(buses only) .....

I declare that the particulars furnished above and on the back hereof are true  
and correct.

Signature of Owner .....

Date ..... 19 .....

Particulars of the vehicle to be licensed should be furnished on back hereof.

## PARTICULARS OF MOTOR VEHICLE

Present Registration Mark and No. ....

Make .....

Country of Origin .....

Tare Weight .....

H.P. ....

No. of Cylinders .....

Engine No. ....

Description of Tyres .....

Gross Vehicle Weight .....

Model .....

Year of Manufacture

Make an X in the spaces hereunder which refer. If a light motor cycle insert "light" in the appropriate place.

## Description -

Car .....	Tractor Farm .....
-----------	--------------------

Bus .....	Tractor other .....
-----------	---------------------

Panel Van .....	Trailer 2 wheels .....
-----------------	------------------------

Motor cycle solo .....	Trailer 4 wheels .....
------------------------	------------------------

Motor cycle other .....	Trailer more than 4 wheels .....
-------------------------	----------------------------------

Truck Tractor .....

Semi Trailer	Semi trailer
2 wheels .....	4 wheels .....

Semi Trailer more	Other .....
than 4 wheels .....	

## How Driven -

Petrol, Crude Oil, Power Paraffin, Steam, Electricity, Other, (*specify*)

## Purpose -

Private .....	Hire .....	Business .....
---------------	------------	----------------

## Class (cars only)

Two seater .....	Touring .....	Sedan .....
------------------	---------------	-------------

## Ownership of vehicle -

Farming or Business, Individual or Partnership, Company or Co-operative, Private Person, Other (*Specify*).

.....

## SCHEDULE 4

## CERTIFICATE OF ROADWORTHINESS

## SECOND-HAND MOTOR VEHICLE

(Section 20 (1))

Valid for 21 days from date of issue

Fee Paid R1.00

Issued to.....

Address.....

Particulars of Second-hand Motor Vehicle passed as fit and properly equipped —

Make .....

Country of Origin.....

Tare Weight . . . . . lbs.

H.P. ....

No. of Cylinders .....

Engine No.....

Chassis No.....

Model .....

Description (insert car, lorry, bus etc. as the case may be)

.....

Year of Manufacture .....

Registration Mark and No. \* .....

\* To be inserted by Registrar

.....  
Registrar

I, ..... do hereby certify that I have this day examined and tested the motor vehicle described above and that I am satisfied that such motor vehicle complies with all the requirements prescribed in respect of it and is in fit condition for use upon a public road.

Date .....

Signature of duly authorised  
Examiner

Notes —

1. This certificate may not be used for a public motor vehicle for which a special certificate is prescribed.
2. This certificate is not a warranty against defects in the motor vehicle described therein.
3. A tractor, in respect of which the owner signified in writing that it will not be used on a public road during hours when lights are prescribed in terms of the regulations may be exempted from the lighting requirements.



D.134

SCHEDULE 5

RENEWAL LICENCE RECEIPT (SECTION 19)

in respect of motor vehicle

Registration Mark and Number .....

Received from —

Owner .....

Address .....

District within which area  
the Licensee resides .....

The sum of ..... Rand ..... cents

LICENCE DUTY R .....

Penalty R .....

R .....

for the year ending 1st March, 19

Clearance Certificate Nos. ....

Main Vehicle .....

Semi Trailer .....

.....  
*Registrar*

Date .....

## SCHEDULE 6

**MOTOR VEHICLE APPLICATION FOR SHORT-TERM  
LICENCE AND REGISTRATION CERTIFICATE**

*(Section 24 (1))*

(In the case of second-hand motor vehicles, a roadworthiness  
certificate must be handed in)

1. Name of Owner (*Capital Letter*)

Surname .....

Christian Names .....

Permanent Address .....

Temporary Address .....

## 2. In case of motor vehicle acquired in Botswana state —

From whom acquired .....

Address .....

Date acquired .....

Certificate of Transfer of Ownership and Identification Cards (*if any*) must be produced or  
surrendered as required.

## 3. If motor vehicle brought into Botswana as unregistered and unlicensed, state —

Name and address of person from whom acquired —

.....

.....

Date acquired .....

Date vehicle was brought into Botswana .....

## 4. If already registered in Botswana state —

\* Present Registration Mark and No. ....

5. If not previously registered in Botswana, state period for which licence is required by  
deleting the period not applicable

viz: THREE MONTHS/SIX MONTHS

## 6. I declare that the particulars furnished above and on the back hereof are true and correct.

Date .....

Signature of Owner .....

*Particulars of Motor Vehicle*

Present Registration Mark and No. ....

If an articulated vehicle —

Present Registration Mark and No. of Semi-Trailer .....

Make .....

Country of Origin .....

Tare ..... lbs.

H.P. ....

No. of Cylinders .....

Engine No. ....

Description of Tyres (*pneumatic, solid steel*) .....

Gross Vehicle Weight .....

Model .....

Year of Manufacture .....

Make an X in the spaces which refer

Description —

Car ..... Bus ..... Lorry or Truck ..... Panel Van .....

Motor Cycle-solo ..... Motor Cycle — other .....

Truck Tractor ..... Tractor, farm ..... Tractor other .....

Trailer 2 wheels ..... Trailer 4 wheels .....

Semi-trailer 4 wheels ..... Semi-trailer more than 4 wheels .....

Other .....

How driven —

Petrol ..... Crude Oil ..... Power Paraffin ..... Steam .....

Electricity ..... Other (*specify*) .....

Purpose —

Private ..... Hire ..... Business .....

Class (Cars only) —

Two-seater, ..... Touring ..... Sedan .....

New Licence only —

New Vehicle (First Registration only) ..... Used Vehicle

(First re-registration in District) .....

Transfer of licence to New Vehicle ..... Transfer of

licence to used vehicle ..... Transfer of licence from previous owner .....

If transfer from previous owner is required, state registration mark and No. at present on  
vehicle .....

If transfer of licence to new or used vehicle is required furnish following particulars of previous vehicle --

Make .....

Tare..... lbs.

H.P. ....

Description (insert car, bus, etc) .....

Registration Mark and No. ....

Ownership of vehicle --

Farming or Business .....

Individual or Partnership Business .....

Company or Co-operative .....

Private Person .....

Other (*specify*) .....

D.138

SCHEDULE 7

CLEARANCE CERTIFICATE

Botswana No. ....

Mark and No. ....

Make .....

Description .....

Engine No. ....

.....  
*Régistrar*

.....  
*District*

Date of expiry .....

*Note:* Particulars must coincide with those given in the certificate of registration.

Material –

Card.

Dimensions –

Diameter of card, 3 inches, Diameter of inner ring  $2\frac{11}{16}$  inches

Overprinting –

The clearance certificate shall have superimposed thereon in a contrasting colour two significant figures being the last two digits of the year of issue.

## SCHEDULE 8

**ADVICE OF CHANGE OF ADDRESS OF OWNER OF MOTOR  
VEHICLE***(section 34 (1) )*(For advice of registration of motor vehicle in  
another district see overleaf)

To .....

Advice of Change of Address of Owner to your Area

Owner .....

Previous Address .....

New Address .....

Particulars of Motor Vehicle –

Make .....

Engine No. ....

Mark and No. ....

Kindly advise when the motor vehicle has been registered in your area.

Signature .....

Title .....

Date .....

D.140

**B – ADVICE OF REGISTRATION OF MOTOR VEHICLE IN  
ANOTHER DISTRICT**

(For Advice of Change of Address of  
Owner of Motor Vehicle see  
overleaf)

To. ....  
.....

Advice of Registration of Motor Vehicle From your Area.

Particulars of Motor Vehicle –

Make .....

Description .....

Engine No. ....

Particulars of Previous Registration

Mark and No. ....

Name under which vehicle was registered .....

Please note that the above-mentioned vehicle previously registered in your district, has  
now been registered in my area.

Vehicle licensed in your area for year .....

Number of licence issued in your district .....

Your registration can accordingly be cancelled

Signature .....

Title .....

Date .....

## SCHEDULE 9

**CERTIFICATE OF TRANSFER OF OWNERSHIP**

(Sections 22(2), 35(2), 36(1), 37(1) )

To be completed by every person (including a dealer) who sells or otherwise disposes of any motor vehicle.

Name of person or firm  
disposing of motor vehicle .....

Residential or other address .....

Date on which motor vehicle  
disposed of .....

Particulars of Motor Vehicle sold or disposed of –

Make .....

Country of Origin .....

Tare Weight .....

H.P. ....

No. of Cylinders .....

Engine No. ....

Chassis No. ....

Gross Vehicle Weight .....

\* If the weight given does not include the weight of the body or body and cab, this certificate must be endorsed to this effect.

Model .....

Description (*Insert car, lorry, bus, etc.*) .....

Year of Manufacture .....

Complete 1 or 2 hereunder as case may be

Registration Certificate No. .... Date .....

Licence No. .... Date .....

Registration Mark and No. ....

Election to retain or surrender licence.

*N.B. Delete paragraph A or B hereunder, as case may be.*

A. To retain licence for transfer to another motor vehicle

I retain the benefit of the licence fees paid in respect of the above named motor vehicle for transfer to another motor vehicle acquired or to be acquired by me.

I declare that I have REMOVED the number-plates from the vehicle sold or disposed of.



**D.142**

B. To surrender the licence for transfer to person acquiring motor vehicle:

*I surrender the benefit of the licence fees paid in respect of the above mentioned motor vehicle for transfer to the new owner thereof, and declare that I have delivered to him the current licence and registration certificate and clearance certificate.*

2. If a used vehicle and not licensed for current year, state –

Name and address of person from whom vehicle acquired –

.....  
.....  
.....

Date acquired .....

Previous Registration Mark and No. (if known) .....

If a new vehicle, endorse "New" on above lines.

No. and Date of Permit issued .....

I hereby declare that the above particulars are correct.

Signature of person selling or disposing of motor vehicle

..... Date .....

## SCHEDULE 10

**REGISTRAR'S ADVICE OF TRANSFER OF OWNERSHIP***(section 35 (2) )*

To. ....

Seller .....

Address .....

.....

Date of Sale .....

Make .....

Country of Origin .....

Tare .....

H.P. ....

No. of Cylinders .....

Engine No. ....

Chassis No. ....

Gross Vehicle Weight .....

*(Buses and Commercial Vehicles only)*Description *(insert car, lorry, bus, etc.)*

.....

Model .....

Year of Manufacture .....

*N.B. Delete paragraph 1 or 2 hereunder as case may be.*

Delete sub-paragraph not applicable.

1. Vehicle Licensed for Current Year

Registration Mark and No. ....

Registration Certificate No. ....

Date .....

Licence No. ....

Date .....

Election by Seller

A. Seller has surrendered the licence for transfer.

B. Seller elects to retain licence

Temporary Permit No. (if any) .....

**D.144**

2. Vehicle not licensed for current Year (sold by dealer)

A. New

B. Seller (dealer) state, in regard to used vehicle —

Acquired from .....

Address .....

Date acquired .....

Previous Mark and No. ....

No. and date of permit issued (if any) .....

.....  
*Registrar*

District .....

Date .....

## SCHEDULE 11

**APPLICATION FOR PERMIT AND IDENTIFICATION CARDS***(Section 39 (3), (11))*

Name of Applicant .....

Address .....

.....

State whether temporary or a special permit required .....

Make .....

Description (*car, lorry, bus, etc.*) .....

Engine No. ....

If newly acquired vehicle state ---

From whom acquired .....

Address .....

.....

(Certificate of Transfer of Ownership and, in respect of a second-hand motor vehicle, a certificate of road-worthiness must be produced, where a temporary permit is applied for)

Certificate of Road-worthiness No. ....

Date .....

District in which vehicle is to be registered and licensed.

.....

Date .....

## SCHEDULE 12

**TEMPORARY PERMIT TO USE MOTOR VEHICLE***(Section, 43 (3))*

Amount Paid R1.00

Date of Expiry .....

To whom issued .....

Address .....

.....

Motor vehicle in respect of which this permit is issued —

Make .....

Description, (car, lorry, bus etc.) .....

Engine No. ....

Date acquired .....

Office at which vehicle to be registered —

.....

Identification Cards Nos. ....

Signature .....

*Dealer/Registrar*

Name of firm .....

*Title of Registrar*

Address .....

.....

Date .....

SCHEDULE 13

**IDENTIFICATION CARD**

(section 39 (3))

Registrar's Distinctive Mark (insert letters as size indicated by R.B. hereunder)

.....

Permit No. (Insert relative figures appearing after letter on permit. Size as indicated by letter hereunder)

.....

Date of Expiry .....

(Use abbreviation of three letter to indicate month. Size of figures and letters as indicated in figures 12).

IT IS AN OFFENCE PUNISHABLE WITH FINE OR IMPRISONMENT TO USE THIS CARD  
ON A MOTOR VEHICLE AFTER DATE OF EXPIRY

D.148

SCHEDULE 14

SPECIAL PERMIT TO USE MOTOR VEHICLE

(section 39 (11))

Date of Expiry .....

To whom issued .....

Address .....

.....

Motor Vehicle in respect of which this permit is issued

Make .....

Description .....

Engine No. ....

Date acquired .....

Office at which vehicle to be registered

.....

Identification Cards Nos. ....

Signature .....

*Dealer/Registrar*

.....

*Name of Firm/Title of Registrar*

Address .....

.....

Date .....

## SCHEDULE 15

## MOTOR VEHICLE DEALERS

## APPLICATION FOR LICENCE

(section 43 (1) )

Year/Period ending 1st March,

1. Name of applicant .....  
(In case of partnership or company insert full names of partners and names of company)  
.....  
.....
2. Name under which business is conducted -  
.....
3. Full address where business is conducted -  
.....  
.....
4. In case of New Business state date on which first unregistered and unlicensed motor vehicle was first acquired from a person who retained his licence -  
.....  
.....  
.....
5. Particulars of licences held -  
Motor Garage Licence No. ....  
Date .....  
General Dealers Licence No. ....  
Date .....
6. Number of motor vehicles in respect of which new or renewal licence is required -  
Motor cycles .....  
Other motor vehicles .....
7. In case of renewal of existing licence state -  
Plate numbers relating to licence required to be renewed -

## MOTOR CYCLES

.....  
 .....  
 .....



**D.150**

VEHICLE (other than cycles)

.....  
.....  
.....

(if spaces are insufficient, an additional form may be used)

I declare that the above particulars are true and correct.

Signature of Applicant .....

Capacity in business .....

Date .....

## SCHEDULE 16

**MOTOR VEHICLE DEALER'S LICENCE**

(section 44 (1) )

Date of Expiry 1st March,

Issued to --

Full names or Proprietor, partners or company to whom licence granted --

.....

.....

Name under which business is conducted --

.....

Address at which business is conducted --

.....

.....

Amount paid, receipt of which is hereby acknowledged --

R ..... C .....

Licence Duty R .....

Penalty R .....

Total R .....

Number of vehicles which may be used on a public road under authority of this licence.

Motor Cycles .....  
 (write in words)

Other Motor Vehicles .....  
 (write in words)

Plate Numbers and Number of Plates authorised --

Motor Cycles (1 Plate for each No.)

Plate Number .....	Token No. ....
--------------------	----------------

Plate Number .....	.....
--------------------	-------

Plate Number .....	.....
--------------------	-------

Vehicles (other than cycles) (2 Plates for each No.)

Plate No. ....	Tokens .....	.....
----------------	--------------	-------

.....	.....	.....
-------	-------	-------

.....	.....	.....
-------	-------	-------

.....	.....	.....
-------	-------	-------

.....

Registrar

SCHEDULE 17

DEALER'S TOKEN

(section 45 (1) )

MOTOR VEHICLE DEALER'S REGISTRATION

No. ....

For use with dealer's number plate.

D. ....

N. ....

.....

*Registrar*

.....

*Date*

Note: Authorised plate-numbers must be inserted in tokens.

Material – Card.

Dimensions – Diameter of card, 3 inches

Diameter of inner ring, 2 11/16 inches.

Overprinting – The tokens shall have superimposed thereon in a contrasting colour such figure and letter or any other device which the Minister may direct.

## SCHEDULE 18

**REGISTER/RETURN OF MOTOR VEHICLE ACQUIRED OR DISPOSED OF**  
(section 48 (1) )

By .....

Of .....

For week ended .....

Date of acquisition/disposal .....

From whom acquired .....

To whom disposed .....

Address .....

.....

Description of Vehicle .....

Make and model .....

Weight ..... lbs

Engine No. ....

Previous registration letters and number – .....

.....

Present registration letters and number – .....

.....

I certify that the foregoing is a true and correct return.

.....  
*Place*

.....  
*Motor Vehicle Dealer*

.....  
*Date*

D.154

SCHEDULE 19

**REPORT TO POLICE RE MOTOR VEHICLE SHOWING SIGNS OF ACCIDENT**

(section 48 (2) )

The officer-in-Charge,

Botswana Police,

.....

The undermentioned motor vehicle, which has been brought to this place of business for repairs, shows the following signs of having recently been involved in an accident or collision –

.....

.....

.....

Name and address of Registered Owner ---

.....

.....

.....

Name and address of driver when vehicle was damaged

.....

.....

Registration Mark and No. ....

Make .....

Description .....

Engine No. ....

Chassis No. ....

State where vehicle can be seen .....

.....  
Signature

Date .....

*N.B. Copy must be retained for record purposes for a period of three years.*

## SCHEDULE 20

**APPLICATION FOR SUBSTITUTION OF A DRIVER'S LICENCE**

Class of Motor Vehicle in respect of which Licence is required —

.....

Full Names of Applicant (*Capital Letters*)

Surname.....

Christian Names .....

Date of Birth .....

Particulars of Licence to be substituted —

No. of Licence .....

Class of Vehicle for which granted .....

Date .....

Office of Issue .....

*(Licences must be produced and surrendered)*

I the undersigned, hereby make application for the substitution of the driver's licence  
aforementioned.

I hereby declare that:

- (i) I have not been the holder of a driver's licence issued in Botswana or elsewhere  
which has been cancelled.
- (ii) I do not hold a driver's licence issued in Botswana or elsewhere which is at pre-  
sent under suspension.
- (iii) I am not, for any other reason, disqualified from holding a driver's licence.
- (iv) I became permanently resident in Botswana on

.....

.....

*Signature or right-thumb impression of Applicant*

Date .....

No. of Driver's Licence issued .....

.....

*Registrar*

Photograph .....

.....

*District*

.....

*Date*

## SCHEDULE 21

**APPLICATION FOR LEARNER'S LICENCE**

(section 53 (4))

Class of motor vehicle in respect of which learner's licence is required —

.....

If in respect of farm tractor, state district(s) —

.....

Full name of Applicant .....

Present Address .....

.....

Age last birthday .....

Date of Birth .....

I, the undersigned, hereby make application for a licence to drive a motor learner's vehicle of the class above mentioned.

I declare that —

1. The foregoing particulars are correct
2. I am not disqualified from obtaining or holding a driver's licence in Botswana or elsewhere which would be a disqualification in Botswana.
- 3.\* I do/do not already hold a licence to drive a motor vehicle in Botswana (If already holding licence specify following particulars)

Class of Licence .....

Number of Licence .....

Date of issue .....

Office of issue .....

4. I am not suffering from one or other of the following diseases or disabilities —

(a) epilepsy

(b) liability to sudden attacks of disabling giddiness or fainting;

(c) inability to read at a distance of seventy-five feet in good daylight (with glasses, if worn) a series of six letters and figures in white on a black background of the same minimum size and arrangement as those prescribed for registration marks and numbers on motor vehicles.

(d) any form of mental disorder or defect.

5. I am not suffering from any other disease or physical disability which renders or will be likely to render me incapable of effectively driving and controlling a motor vehicle of the class in respect of which the application is made, without endangering public safety (Note: Deafness shall not of itself be deemed to be any such liability).

6. I am not addicted to the use of narcotic drugs or the excessive use of intoxicating liquor.

7. I am not for any other reason disqualified from holding or obtaining a driver's licence.

8. I have read this declaration and understand the contents thereof.

Delete word (s) not applicable

.....  
Signature or right-thumb impression

.....  
Date

Penalty for False Declaration R100 or Six months or both such fine and such imprisonment.

Provisional Certificate of Competence.

Class of Motor Vehicle in respect of which certificate issued –

.....  
I hereby certify that I have examined the applicant and that he/she has a sufficient knowledge of the rules of the road and the controls of the class of motor vehicle specified herein.

I certify that the signature or right thumb impression which is appended hereto is that of the applicant, and was placed on this certificate in my presence.

.....  
Examiner

Area .....

.....  
Date

.....  
Signature or right thumb  
impression of person to whom  
certificate is issued.

This certificate is not a Learner's Licence. To obtain a Learner's Licence the certificate must be surrendered before 21 days expires.

Unless the certificate is surrendered and a learner's licence/permit obtained before the date of expiry a new certificate of competence must be obtained.

No. of Learner's Licence/permit issued .....

.....  
Registrar

.....  
District

.....  
Date of Issue

Photograph to comply with description overleaf



D.158

SCHEDULE 22

**LEARNER'S LICENCE/PERMIT**

(section 53(4) )

Valid for three months from date of issue

Amount paid R1.00

Name (in full) .....

Address .....

Class of motor vehicle in respect of which licence issued –

This licence is hereby granted to the above-named person to drive for a period of three months from the date of issue, and subject to the conditions printed on the back hereof, a motor vehicle of the class described above.

Date of issue .....

.....  
*Registrar*

Ordinary signature of holder of licence or right thumb impression of person unable to write

Photograph as Prescribed

Reverse side of Schedule 24

Conditions to which Licence is subject –

1. The holder shall drive no other motor vehicle than of the class aforementioned.
2. The holder shall not drive the motor vehicle unless under the direct personal supervision of a person holding a licence to drive a motor vehicle of that class mentioned, who shall, except in the case of a motor cycle, be present in the motor vehicle with the holder of this licence.
3. No passengers shall be carried in a public motor vehicle or on a motor cycle, solo, while being driven by the holder of a learner's licence.

## SCHEDULE 23

**APPLICATION FOR CERTIFICATE OF COMPETENCE**

(section 54 (1))

Class of Motor Vehicle in respect of which Licence is required —

.....

If in respect of Farm Tractor, state District(s)

.....

Full Name of Applicant (Capital Letters)

Surname .....

Christian Names .....

Permanent Residential Address .....

.....

Period during which applicant has resided at present address —

From ..... To .....

Date of Birth .....

I, the undersigned, hereby make application for a certificate of competence in respect of a motor vehicle of the class above-mentioned, and attach two recent full-face photographs of passport size in which the head and shoulders are not less than an inch and a half in length.

I declare that —

(1) the foregoing particulars are correct.

(2) I am not disqualified from obtaining or holding a driver's licence in Botswana or elsewhere which would be a disqualification in Botswana.

(3) I do/do not already hold a licence to drive a motor vehicle in Botswana (If already holding a licence specify following particulars)

Class of licence .....

Number of Licence .....

Date of issue .....

Office of issue .....

(4) I am not suffering from one or other of the following diseases or disabilities —

(a) epilepsy

(b) liability to sudden attacks of disabling giddiness or fainting;

(c) inability to read at a distance of seventy-five feet in good daylight (with glasses, if worn) a series of six letters and figures in white on black ground of the same minimum size and arrangement as those prescribed for registration marks and numbers on motor vehicles.

(d) any form of mental disorder or defect.

(5) I am not suffering from any other disease or physical disability which renders or will be likely to render me incapable of effectively driving and controlling a motor vehicle of the class in respect of which the application is made without endangering public safety. (Note Deafness shall not be deemed to be any such disability) or

D.160

- (6) I am not addicted to the use of narcotic drugs or the excessive use of intoxicating liquor;
- (7) I am not for any other reason disqualified from holding or obtaining a driver's licence;
- (8) I have read this declaration and understand the contents thereof.

*\* Delete words not applicable*

.....  
*Signature or right-thumb impression of Applicant.*

.....  
*Date*

Penalty for False Declaration R100 or Six Months or both such fine and such imprisonment.

Certificate of Competence  
Valid for three months from date of issue

Class of motor vehicle in respect of which certificate issued —

.....  
I hereby certify that I have, by observation, enquiry and practical test, satisfied myself that that the person named overleaf —

- (a) is the holder of a current relevant learner's licence;
- (b) knows and understands all road traffic signs;
- (c) has a sound knowledge of the rules of the road and the different signals which drivers of motor vehicles are required to give when driving on public roads;
- (d) is able to read at a distance of 75 feet in good daylight a series of six letters and figures in white on a black ground of the same minimum size and arrangement as those prescribed for registration marks and numbers on motor vehicles;
- (e) is not suffering from any disease or physical disability which renders or will be likely to render him incapable of effectively driving and controlling a motor vehicle in the class in respect of which the application is made, without endangering public safety;
- (f) can unaided —
  - (i) start the motor vehicle from rest to move away in a reasonably quick time and to maintain an accurate course;
  - (ii) turn right and left-hand corners correctly;
  - (iii) stop the motor vehicle within a reasonable distance when travelling at various speeds and has satisfied me that in an emergency he will be able to apply the brakes promptly and effectively;
  - (iv) operate all controls with safety and without moving from the driving seat;
  - (v) given all prescribed signals in a clear and unmistakable manner;
  - (vi) cause the motor vehicle to proceed backwards in reverse gear for a reasonable distance make a left and right hand turn in reverse gear, into an indicated position (not applicable in case of motor vehicle not fitted with reverse gear);
  - (vii) in a narrow road, turn the motor vehicle round so as to proceed in the opposite direction; and
  - (viii) stop, hold and start the motor vehicle on a gradient of at least one in fifteen.
- (g) is generally capable of driving a motor vehicle of the class to which this application relates.

I further certify that the signature or right thumb impression which is appended hereto is that of the above named person and was placed on the certificate in my presence.

.....  
*Examiner*

Area ..... Date .....

D.161

Signature or right thumb impression of person to whom certificate is issued.

.....

This Certificate is not a Driver's Licence. To obtain a Driver's Licence, the Certificate must be surrendered before the date of expiry.

Unless the certificate is surrendered and a Driver's licence obtained before the date of expiry, a new certificate of competence must be obtained.

No. of Driver's Licence issued .....

.....  
*Registrar*

.....  
*District*

Photograph to comply with  
description overleaf

.....  
Date of Issue

D.162

SCHEDULE 24

**DRIVER'S LICENCE**

(section 56 (3) )

Class of motor vehicle in respect of which licence granted –

.....

Issued to –

Surname .....

Christian Names .....

Address .....

.....

Date of Birth .....

Fold here –

Fee Paid R1.00

This licence is hereby granted to the above-named person whose photograph and signature (or right thumb impression) appear hereunder, to drive a motor vehicle of the class described above.

.....  
*Registrar*

.....  
*District*

Photograph

.....  
*Date*

.....  
*Signature of Driver*

(or right-thumb impression)

Fold here –

ENDORSEMENTS

.....

.....

.....

.....

.....

## SCHEDULE 25

**APPLICATION FOR DUPLICATE LEARNER'S OR DRIVER'S LICENCE**

(section 13 (1) )

Class of motor vehicle in respect of which licence is required –

.....

Full Name of Applicant (Capital Letters)

Surname .....

Christian Names .....

Address .....

.....

Date of Birth .....

Particulars of original licence –

No. ....

Date of Issue .....

Office of Issue .....

I, the undersigned, hereby make application for a duplicate learner's/driver's licence and attach two recent full face photographs of passport size in which the head and shoulders are not less than an inch and half in length.

I hereby declare that –

- (1) I have not been the holder of a learner's/driver's licence issued in Botswana or elsewhere which has been cancelled.
- (2) I do not hold a learner's/driver's licence issued in Botswana or elsewhere which is at present under suspension.
- (3) I am not, for any other reason, disqualified from holding a learner's/driver's licence /permit.

I further declare that I am the legal holder of the learner's/driver's licence of which particulars are given above, and that such licence has been lost or destroyed under the following circumstances –

.....

.....

.....

.....

.....  
*Signature or right thumb impression of Applicant*

.....  
 Date

D.164

No Licence to be issued without reference to the Registrar of Motor Vehicles,

..... District.

No. of Learner's/Driver's Licence issued .....

.....  
*Registrar*

Photograph to comply  
with Description above.

.....  
*District*

.....  
*Date of Issue*

Not applicable in the case of a Duplicate Learner's Licence.

The Registrar of Motor Vehicles,

..... District

Authority is sought for the issue of a duplicate licence. Two photographs are attached.

Date .....

To. ....

.....

Issue of a Duplicate Driver's Licence is approved.

.....  
Registrar of Motor Vehicles

.....  
Date

## SCHEDULE 26

**DUPLICATE DRIVER'S LICENCE**

(Section 13 (1) )

Original Licence No. ....

Date .....

Class of motor vehicle in respect of which licence issued

.....

Issued to -

Surname .....

Christian Names .....

Address .....

.....

Date of Birth .....

Fold here -

Fee Paid      25 cents

This licence is hereby granted to the above-named person whose photograph and signature (or right thumb impression) appear hereunder, to drive motor vehicle of the class described above.

.....  
*Registrar*

Photograph

.....  
*District*.....  
*Date*.....  
*Signature of Driver (or right-thumb  
impression)*

Fold here -

**ENDORSEMENTS**

.....

.....

.....

.....



D.166

SCHEDULE 27

**CERTIFICATE OF FITNESS**

**TRAILER**

Mark and No. ....

Certificate of fitness

No. ....

Date of Expiry ....

Size of Tyres –

Front .....

Rear .....

Other .....

.....  
*Examiner*

Date .....

*Note – Particulars must coincide with those given in the certificate of fitness.*

Material – Card

Dimensions – Diameter of Card, three inches  
Diameter of inner ring  $2\frac{1}{4}$  inches

## SCHEDULE 28

## APPLICATION FOR DUPLICATE OF DOCUMENT OR TOKEN

Surname .....

Christian Names .....

Full Address .....

.....

I hereby apply for a duplicate of the —

Motor Vehicle Licence/Registration Certificate

Clearance Certificate

Dealer's Motor vehicle Licence

Dealer's Clearance Certificate

Other (specify) .....

for the period/year ending .....

issued to me in respect of the undermentioned motor vehicles —

Registration Markhand No. ....

Description of Vehicle .....

Make .....

Engine No. ....

(In case of dealer's licence specify plate numbers only on back hereof)

I hereby declare that the original of the document or token in question has been lost or destroyed and undertake to return it if it is found.

Original document or token, or portion thereof, if available and 50c herewith.

Penalty for False Declaration, R100 or six months or both such fine and such imprisonment.

Signature .....

Date .....

## SCHEDULE 29

**CERTIFICATE OF ISSUE OF DOCUMENT OR TOKEN***(Other than a learner's or driver's licence)*

50 cents

Registration Mark and No. ....

To whom issued —

Name .....

Address .....

(A) # Details of original \* Licence Registration

or other certificate .....

Rand ..... cents .....

Amount paid .....

Date issued .....

\* Licence/Certificate No. ....

\* For Period/Year ending .....

Engine No. .... Make .....

Tare weight ..... lbs.

(B) # (i) Details of original token issued

Date .....

(ii) Details of duplicate clearance certificate/Dealer's Clearance Certificate/  
Short-term Disc now issued —

No. ....

I hereby certify that, according to my records, the particulars in \* A/B (i) above are  
that of the original issued......  
*Registrar*

\* Delete whichever is not applicable

# Only part A or part B must be completed.

## SCHEDULE 30

## PUBLIC MOTOR VEHICLE APPLICATION FOR CERTIFICATE OF FITNESS

Period From .....

Full Name of Owner (or name of firm) —

.....

Present Address .....

.....

Period during which applicant has resided at present address —

From ..... To .....

Particulars of Motor Vehicle to be examined —

Make .....

Country of Origin .....

Weight .....

H.P. ....

No. of Cylinders .....

Engine No. ....

Chassis No. ....

Model .....

Description .....

Year of Manufacture .....

Registration Mark and No. ....

State whether vehicle is a bus or other vehicle plying for hire —

.....

I declare that the above particulars are true and correct.

Signature of Owner .....

Date .....

## SCHEDULE 31

**CERTIFICATE OF FITNESS PUBLIC MOTOR VEHICLE**

Period from ..... to .....

Fee Paid 50c

Issued to —

Owner .....

Address .....

.....

Particulars of Motor Vehicle passed as fit and properly equiped —

Make .....

Country of Origin .....

Tare Weight .....

H.P. ....

No. of Cylinders .....

Engine No. ....

Chassis No. ....

Model .....

Description .....

Year of Manufacture .....

Registration Mark and No. ....

Public Motor Vehicle (i.e. bus or other vehicle plying for hire)

.....

Conditions under which certificate granted —

Maximum speed, m.p.h. ....

Size of tyres — Front .....

Rear .....

Other .....

No. of passengers which may be carried —

Sitting .....

Standing .....

TOTAL .....

D.171

Variation authorised by the Minister —

Sitting .....

Standing .....

TOTAL .....

.....  
*Examiner*

.....  
*Date*

*Note* — This certificate must at all times be carried upon the motor vehicle in respect of which it was granted :

Provided, in the case of a trailer the certificate of fitness disc as prescribed shall at all times be carried on the vehicle.

.....

**Statutory Instrument No. 24 of 1967.**

THE CITIZENSHIP OF BOTSWANA (SUPPLEMENTARY PROVISIONS) LAW, 1966

**THE CITIZENSHIP OF BOTSWANA (AMENDMENT NO. 2) REGULATIONS, 1967**

(Published on 5th May, 1967)

In the exercise of the powers vested in him by section 18 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966, (Law No. 39 of 1966) the Minister of Home Affairs hereby makes the following regulations —

**Title.**

1. These Regulations may be cited as the Citizenship of Botswana (Amendment No. 2) Regulations, 1967.

**Amendment of Regulation 2 of Legal Notice No. 82 of 1966.**

2. Regulation 2 of the Citizenship of Botswana Regulations, 1966 (hereinafter referred to as the principal regulations) is amended by the deletion of the definitions of "Immigration Control Office" and "Immigration Control Officer" and by the substitution of —

“ "Citizenship Officer" means the person appointed by the Minister to be Citizenship Officer for the purposes of these regulations ; ”.

**Amendment of Regulation 7 of Legal Notice No. 82 of 1966.**

3. Regulation 7 of the principal regulations is amended by the deletion of "An" and the substitution of "Unless the application accompanies an application for a certificate of naturalization in accordance with the provisions of regulation 12 an".

**Amendment of Regulations 9, 10, 11 and 14 of Legal Notice No. 82 of 1966.**

4. Regulations 9, 10, 11 and 14 of the principal regulations are amended by the deletion of "Immigration Control" wherever it appears and the substitution of "Citizenship".

**Amendment of Regulation 12 of Legal Notice No. 82 of 1966.**

5. Regulation 12 of the principal regulations is amended by the addition at the end thereof of "and may be accompanied by an application for the registration of a minor child of the applicant as a citizen in terms of section 4 of the Law".

**Amendment of Regulation 13 of Legal Notice No. 82 of 1966.**

6. Regulation 13 of the principal regulations is amended by the deletion of "Immigration Control Officer." and the substitution of "Minister and witnessed by the Citizenship Officer."



**D.174**

**Amendment of Regulation 14 of Legal Notice No. 82 of 1966.**

7. Regulation 14 of the principal regulations is amended by the deletion of "13" and the substitution of "12".

**Amendment of Regulations 15 (3) and 16 (2) of Legal Notice No. 82 of 1966.**

8. Regulations 15 (3) and 16 (2) of the principal regulations are amended by the deletion of "Immigration Control Office" and the substitution of "Ministry of Home Affairs".

**Amendment of Regulation 20 of Legal Notice No. 82 of 1966.**

9. Regulation 20 of the principal regulations is amended by the deletion of "Immigration Control" and the substitution of "Citizenship".

**Amendment of Regulation 22 of Legal Notice No. 82 of 1966.**

10. Regulation 22 of the principal regulations is amended by the deletion of "Immigration Control Office" and the substitution of "Ministry of Home Affairs".

**Amendment of Regulations 29, 31 and 32 (2) of Legal Notice No. 82 of 1966.**

11. Regulations 29, 31 and 32 (2) of the principal regulations are amended by the deletion of "Immigration Control" and the substitution of "Citizenship".

**Amendment of First Schedule of Legal Notice No. 82 of 1966.**

12. The First Schedule of the principal regulations is amended in forms G1, G2, G3, J and L —

- (a) by the deletion of "Immigration Control Office" wherever it appears and the substitution of "Ministry of Home Affairs";
- (b) by the deletion of "Immigration Control Officer" wherever it appears and the substitution of "Citizenship Officer"..

**Amendment of Regulation 1 of Statutory Instrument No. 9 of 1967.**

13. Regulation 1 of the Citizenship of Botswana Regulations, 1967, is amended by the insertion after "Botswana" of "(Amendment No. 1)".

A.N. DONALD,  
Permanent Secretary.

Ministry of Home Affairs,  
GABERONES.  
12th April, 1967.

**Statutory Instrument No. 25 of 1967**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (HUNTING ON STATE LAND) REGULATIONS, 1967**

(Published on 19th May, 1967)

In exercise of the powers vested in him by section 93 as read with section 4(2) of the Fauna Conservation Proclamation, 1961, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Short Title and Application**

1. These regulations may be cited as the Fauna Conservation (Hunting on State Land) Regulations, 1967 and shall apply to Africans resident on State Land in the Kgalagadi and Ghanzi districts in respect of hunting on State land in the district in which they reside.

**Interpretation**

2. For the purpose of these regulations "district" means district prescribed in the General Administration Proclamation (Chapter 35).

**Prohibition on Hunting Certain Animals**

3. No person to whom these regulations apply shall, within the areas to which these regulations apply, hunt any animal listed in the Schedule save under and in accordance with a licence or permit lawfully issued under the provisions of the Fauna Conservation Proclamation 1961.

**Destruction of Animals in Self-Defence**

4. (1) Notwithstanding the provisions of regulation 3, it shall be lawful for any person to whom these regulations apply to kill or injure any animal listed in the Schedule in defence of himself or another person if this is immediately and absolutely necessary.

(2) The burden of proving that any animal has been killed or injured in accordance with the provisions of this regulation shall lie upon the person who killed or injured such animal.

**Destruction of Animals Causing Damage to Livestock etc.**

5. (1) Notwithstanding the provisions of regulation 3, it shall be lawful for any person to whom these regulations apply who is the occupier of land, or any person authorised by him, to destroy on such land any animal listed in the Schedule causing damage to any livestock, crops, water installation or fence.

(2) The District Commissioner may authorise the killing of, and it shall be lawful for a person to whom these regulations apply to kill or injure in accordance with such authority, any wild animal, which in the opinion of the District Commissioner has caused and is likely again to cause, damage to any livestock, crops, water installation or fence.

**Penalties**

6. Any person contravening the provisions of regulation 3 shall be guilty of an offence and shall be liable on conviction to a fine of R400, or, in default of payment thereof, imprisonment for a period of six months, or such imprisonment without the option of a fine

**D.176**

or both such fine and imprisonment and shall, in addition, be liable to the penalties prescribed in section 85 of the Fauna Conservation Proclamation in relation to persons convicted of contravening regulations made thereunder.

**SCHEDULE**

Bat-eared Fox (Motlose)  
Cheetah (Lengau)  
Eland (Phofu)  
Gemsbok (Kukama)  
Giraffe (Thutlwa)  
Kudu (Tholo)  
Leopard (Nkwe)  
Lion (Tau)  
Springbok (Tshephe)

GABERONES.  
12th May, 1967.

Permanent Secretary,  
Ministry of Commerce, Industry and Water Affairs.

D.177

**Statutory Instrument No. 26 of 1967**

THE BOTSWANA INDEPENDENCE ORDER 1966

**CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS) ORDER,  
1967 (NO. 10)**

(Published on 19th May, 1967)

In exercise of the powers vested in him by section 4(3) (a) of the Botswana Independence Order 1966 His Excellency the President hereby makes the following Order —

**Title**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) Order 1967 (No. 10).

**Amendment of Cap. 5**

2. The Subordinate Courts Proclamation (Chapter 5) is amended in section 93 by the deletion of "President" and the substitution of "Chief Justice".

D.W. FINLAY,  
Private Secretary to the President.

Office of the President,  
GABERONES.  
27.4.67.

1. The first step in the process of creating a new product is to identify a market need. This involves conducting market research to understand the preferences and behaviors of potential customers. Once a need is identified, the next step is to develop a concept that addresses this need. This concept should be unique and offer a clear value proposition. The third step is to create a prototype, which allows the team to test the concept and gather feedback from potential users. Finally, the product is refined based on this feedback and then launched into the market. Throughout this process, it is crucial to maintain open communication with the target audience and be prepared to iterate on the design as needed.

**Statutory Instrument No. 27 of 1967**

THE CHANGE OF NAME LAW, 1963

**THE CHANGE OF NAME (FEES) REGULATIONS, 1967**

(Published on 9th June, 1967)

In the exercise of the powers vested in him by section 8 of the Change of Name Law, 1963, His Excellency the President hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Change of Name (Fees) Regulations, 1967.

**Imposition of Fee**

2. No authorization shall be given in terms of section 3 (1) (a) of the Law unless the person concerned has first paid a fee R2.00 to the Permanent Secretary for Home Affairs.

Cabinet Office,  
GABERONES.  
April, 1967

D.W. FINLAY,  
for Secretary to the Cabinet.

---

**Statutory Instrument No. 28 of 1967**

THE ADMINISTRATION OF ESTATES PROCLAMATION

**THE ADMINISTRATION OF ESTATES APPLICATION ORDER, 1967**

(Published on 9th June, 1967)

In exercise of the powers vested in him by section 3 (2) of the Administration of Estates Proclamation (Cap. 83) His Excellency the President hereby makes the following Order —

**Title**

1. This Order may be cited as the Administration of Estates Application Order, 1967.

**Application of the Administration of Estates Proclamation to Africans' Property**

2. The Administration of Estates Proclamation (Cap. 83), excluding section 15 to 19 inclusive, 32 and 33, is applied to any property, forming part of the estate of a deceased African the administration of which is vested in an executor other than a person who is —

- (a) a member of the tribe (being a tribe of Botswana) if any, to which the deceased belonged; and
- (b) ordinarily resident in Botswana.

Cabinet Office,  
GABERONES.  
April, 1967

D.W. FINLAY,  
Secretary to the Cabinet.

1. The first part of the document is a list of the names of the members of the committee, which is headed by the Chairman, Mr. J. H. C. [Name]. The list includes the names of the members of the committee, the names of the members of the sub-committee, and the names of the members of the working group. The list is followed by a list of the names of the members of the committee, which is headed by the Chairman, Mr. J. H. C. [Name]. The list includes the names of the members of the committee, the names of the members of the sub-committee, and the names of the members of the working group.

**Statutory Instrument No. 29 of 1967.**

THE PUBLIC SEAL LAW, 1966

**THE PUBLIC SEAL ORDER 1967**

(Published on 23rd June, 1967)

In exercise of the powers vested in him by section 2 of the Public Seal Law, 1966 (No. 32 of 1966) His Excellency the President is pleased to order, and it is hereby ordered as follows —

**Title**

1. This Order may be cited as the Public Seal Order, 1967.

**Public Seal**

2. The Public Seal of the Republic of Botswana shall be a device representing the coat of arms of Botswana as defined in the Botswana Emblems Law, 1966, and prescribed in Part I of the Schedule of the said Law encircled by the words "PUBLIC SEAL OF THE REPUBLIC OF BOTSWANA".

**Revocation**

3. The Order published in Legal Notice No. 89 of 1966 is hereby revoked.

D.W. FINLAY,  
Private Secretary to the President.

Office of the President,  
GABERONES.  
15th June, 1967.



**D.182**

**Statutory Instrument No. 30 of 1967.**

THE FAUNA CONSERVATION PROCLAMATION, 1961

**THE FAUNA CONSERVATION (RECORDS AND RETURNS BY TROPHY DEALERS)  
REGULATIONS, 1967**

In exercise of the powers vested in him under section 93 as read with section 67 of the Fauna Conservation Proclamation, 1961, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations –

**Title and Date of Commencement**

1. These regulations may be cited as the Fauna Conservation (Records and Returns by Trophy Dealers) Regulations, 1967, and shall come into operation on the 1st July, 1967.

**Rendering of Returns by Trophy Dealers**

2. (1) A trophy dealer shall render, in the form prescribed in the Schedule, a return of all trophies exported from Botswana, imported into Botswana and sold locally by him during the two monthly period commencing on 1st July, 1967, and ending on the 31st August, 1967, and in respect of every two monthly period thereafter.

(2) The returns referred to in subregulation (1) shall be made on or before the 15th of September, 1967, and thereafter on or before the 15th of the month next following the end of the period to which the return relates and shall be rendered to –

- (a) the Chief Game Warden,  
Private Bag 4, Gaborone; and
- (b) The District Commissioner of the district in which the trophy dealer carries on business.

**Keeping of Registers by Trophy Dealers**

3. A copy of every return rendered by a trophy dealer under the provisions of regulation 2 shall be retained and kept by him in the form of a register and shall be a register for the purposes of the provisions of section 67 of the Fauna Conservation Proclamation.

**Incomplete, False, Inaccurate and Misleading Returns and Register**

4. A return made under the provisions of regulation 2 or a register kept under the provisions of regulation 3 which is not complete or which contains information which is false, inaccurate or misleading shall not be a return or register for the purposes of section 67 of the Fauna Conservation Proclamation.

## D.183

## Section 67, Fauna Conservation Proclamation, 1961) DATE:

[illegible]

P.W. REARDON,  
Permanent Secretary.

These Regulations make provision for the making of returns and the keeping of registers by trophy dealers. In terms of section 67 of the Fauna Conservation Proclamation, 1961, failure to make such a return or to keep such a register is a criminal offence.

1. The first step in the process of creating a new product is to identify a market need. This involves conducting market research to understand the target audience's preferences and pain points. Once a need is identified, the next step is to develop a concept that addresses this need. This stage often involves brainstorming and prototyping to refine the idea. The third step is to create a business plan, which outlines the financial aspects of the product, including costs, revenue projections, and marketing strategies. Finally, the product is developed and launched into the market. Throughout this process, it is crucial to maintain communication with potential customers and stakeholders to ensure the product remains relevant and valuable.

**Statutory Instrument No. 31 of 1967**

**THE IMMIGRATION (CONSOLIDATION) LAW, 1966**

**SECTION 6 (1) EXEMPTIONS**

In exercise of the powers vested in him by section 6 (1) of the Immigration (Consolidation) Law, 1966 (No. 19 of 1966) the Minister of Home Affairs hereby exempts members of the class of persons referred to in the Schedule from complying with the provisions of section 6 (1) of the said Law.

2. Legal Notice No. 53 of 1966 is cancelled.

**SCHEDULE**

Any persons employed —

- (a) by the Department of the Surveyor-General of Rhodesia; and
- (b) by the Trigonometrical Survey of the Republic of South Africa;

whilst engaged on surveying duties:

Provided —

- (i) they are in possession of valid passports or certificates of identity; and
- (ii) their names have, prior to entry, been notified by the Government concerned to the Immigration Control Officer and these names appear on a list kept by that Officer.

A.H. DONALD,  
Permanent Secretary, Ministry of Home Affairs.

Ministry of Home Affairs,  
GABERONES.  
15th June, 1967.

.....

**Statutory Instrument No. 32 of 1967**

**THE IMMIGRATION (CONSOLIDATION) LAW, 1966**

**THE IMMIGRATION (VISA) REGULATIONS, 1967**

(Published on the 7th July, 1967)

In the exercise of the powers vested in him by section 31 of the Immigration (Consolidation) Law, 1966 (No. 19 of 1966) His Excellency the President hereby makes the following regulations –

**Title**

1. These Regulations may be cited as the Immigration (Visa) Regulations, 1967.

**Interpretation**

2. In these regulations, unless the context otherwise requires –

“authorized officer” means a person authorized by the Minister to issue a visa;

“holder” means the person to whom a visa is granted and who is the holder of a valid travel document.

**Visa Required in the Case of Persons Entering Botswana**

3. Subject to the provisions of regulation 5 no document shall be a travel document for the purposes of the Immigration (Consolidation) Law, 1966, unless it contains, or has annexed to it, a valid and current visa issued in accordance with these regulations.

**Types of visas**

4. (1) A visa shall be either –

- (a) a continuous visa; or
- (b) a transit visa; or
- (c) an ordinary visa.

(2) A continuous visa shall be a visa authorizing the holder to enter Botswana on an unlimited number of occasions within a period of twelve months from the date of the grant of the visa.

(3) A transit visa shall be a visa authorizing the holder to pass through Botswana in transit to some other country and shall be valid for the period endorsed on the visa by the authorized officer.

(4) An ordinary visa shall be a visa authorizing the holder to enter Botswana on such number of occasions, and for such periods, as may be endorsed on the visa by the authorized officer.

- (5) A continuous, transit or ordinary visa may be granted —

- (a) where the provisions of regulation 6 (3) are applicable; or
- (b) on the direction of the Minister;

as a diplomatic, official or gratis visa.

## D.188

### Exemptions

5. (1) No visa shall be required by a national of a country listed in the First Schedule who is the holder of a valid passport issued by that country:

Provided that nothing in this subregulation shall exempt any person from obtaining a visa who holds a travel document other than a full national passport.

(2) The following persons, shall not require a visa –

- (a) travellers by air when the traveller holds a through ticket to a destination outside Botswana and passes through Botswana in direct transit; and
- (b) persons travelling through Botswana by rail on an unbroken journey.

(3) No visa shall be required by members of the Diplomatic Service of foreign states or by foreign consular officers *de carriere* accredited to Botswana.

### Application for visas

6. (1) A person wishing to obtain a visa shall make application to an authorized officer and shall produce to that officer –

- (a) a valid national passport or other sufficient document establishing the nationality and identity of the applicant; and
- (b) a re-entry permit to the country where he is ordinarily resident if such a permit is required by that country.

(2) The fees specified in the second column hereunder shall be paid for the visas specified in the first column –

<i>First Column</i>	<i>Second Column</i>
Continuous visa	R2.25
Transit visa	R0.25
Ordinary visa	R2.25

Provided that the Minister may direct that the visa fees charged to the nationals of a country specified by him shall be equivalent to the fees charged by that country for visas issued to citizens of Botswana.

(3) No visa fee shall be charged in respect of a diplomatic visa issued –

- (a) to the officers of foreign governments, the United Nations or other international organizations travelling on official business;
- (b) to servants of persons mentioned in regulation 5 (3) and of holders of a diplomatic visa when travelling alone on their way to or from posts at which they are or have been employed;
- (c) in such other cases as the Minister may direct.

(4) A visa shall be in the form prescribed in the Second Schedule.

### United Nations Laissez-passer

7. A United Nations *laissez-passer* shall be a sufficient document establishing the nationality and identity of the applicant for the purposes of regulation 6(1).

### No Right of Entry

8. A visa shall not confer upon any person a right to enter or remain in Botswana.

FIRST SCHEDULE  
(Regulation 5 (1))

All Commonwealth countries  
Belgium  
Denmark  
Finland  
Greece  
Iceland  
Italy  
Liechtenstein  
Luxembourg  
Netherlands  
Norway and Colonies  
Republic of Ireland  
Republic of South Africa  
San Marino  
Sweden  
Switzerland  
United States of America  
Uruguay



**D.190**

**SECOND SCHEDULE**  
(Regulation 6 (4))

**REPUBLIC OF BOTSWANA**

(issuing office and place)

Continuous/Transit/Ordinary/Visa

\*

Diplomatic/Official/Gratis/Visa

Good for ..... journeys within

..... months of the date hereof

to Botswana  
in transit through

\_\_\_\_\_  
\_\_\_\_\_

( Signed).....

(date) .....

\* So much as is inapplicable to be deleted.

P.J. HEADY,  
for Secretary to the Cabinet

Cabinet Office,  
GABERONES.  
28th June, 1967.

**Statutory Instrument No. 33 of 1967**

**THE TOWNSHIPS PROCLAMATION (CAP. 120)**

**TOWN COUNCIL (AMENDMENT) REGULATIONS, 1967**

In exercise of the powers vested in him by section 2 of the Townships Proclamation (Cap. 120), His Excellency the President hereby makes the following regulations –

**Short Title**

1. These regulations may be cited as the Town Council (Amendment) Regulations, 1967.

**Amendment of Regulation 31 of Legal Notice No. 37 of 1966**

2. Regulation 31 (2) of the Town Council Regulations, 1966 (hereinafter referred to as the principal regulations) is amended by inserting after “permits may” the words “be required thereunder and may”.

**Amendment of Regulation 32 of Legal Notice No. 37 of 1966**

3. Regulation 32 of the principal regulation is deleted and the following is substituted —

**“Bye-Laws to be Submitted to President**

32. No bye-law made by a council shall be of any force and effect unless it is approved by the President and published in the *Gazette*.”.

**Amendment of Regulation 33 of Legal Notice No. 37 of 1966**

4. Regulation 33 of the principal regulations is amended in sub-regulation (1) by the deletion of “Minister” and the substitution of “President”.

A. MOGWE,  
Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
26th June, 1967.

1. The first part of the document is a list of the names of the members of the committee who have been appointed to the various sub-committees. The names are listed in alphabetical order of the last name.

## Statutory Instrument No. 34 of 1967

## THE POUNDS PROCLAMATION (CAP. 140)

## LOBATSI TOWNSHIP – POUND FEES

In exercise of the powers vested in him by section 43 of the Pounds Proclamation (Chapter 140), His Excellency the President hereby alters the tariff of fees and rates fixed in the Schedules A, B, C, D, E and F to the Pounds Proclamation in respect of Pounds within the Lobatsi Township (as defined in Statutory Instrument under the General Administration Proclamation (Chapter 35)) as follows –

## SCHEDULE A

## RATES OF MILEAGE

For all animals whether one or more, per mile, going to the pound 20c

## SCHEDULE B

## TRESPASS ON CULTIVATED LANDS

<i>Description of animal</i>	<i>If land enclosed with sufficient fence</i>	<i>If land not so enclosed</i>
Horses, mules, cattle, goats,		
pigs per head	60c	30c
Sheep per head	20c	10c
Donkeys per head	20c	10c

## SCHEDULE C

## TRESPASS ON UNCULTIVATED LAND

<i>Description of animal</i>	<i>If land enclosed with sufficient fence</i>	<i>If land not so enclosed</i>
Horses, mules, cattle, goats,		
pigs per head	20c	10c
Sheep per head	10c	7c
Donkeys per head	20c	10c

## SCHEDULE D

## POUND FEES

Horses, mules, cattle, goats and pigs per head	50c
Sheep per head	25c
Donkeys per head	30c

D.194

SCHEDULE E

SUSTENANCE FEES

Horses, mules, cattle, goats and pigs per head per day	25c
Sheep per head per day	10c
Donkeys per head per day	10c

SCHEDULE F

FEES FOR ANIMALS TO BE HERDED SEPARATELY

For every Stallion per day	50c
For every Bull per day	50c
For every Boar per day	50c
For every Sheep, Ram or other single animal per day	10c
For every Goat per day	50c
For every Donkey per day	10c

P.J. HEADY,  
for Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
29th June, 1967.

**Statutory Instrument No. 35 of 1967.**

**THE AGRICULTURAL CHARGES ACT, 1967**

**THE AGRICULTURAL CHARGES (FORMS) REGULATIONS, 1967**

In exercise of the powers vested in him by section 17 of the Agricultural Charges Act, 1967 (Act No. 2 of 1967) the Minister of Finance hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Agricultural Charges (Forms) Regulations, 1967.

**Interpretation**

2. In these regulations —

“Form” means form prescribed in the Schedule.

**Prescribed Forms**

3. For the purposes of the Act —

- (a) a certificate of indebtedness shall be in Form 1 ;
- (b) notice in accordance with the provisions of section 7(5) of the Act shall be in Form 2 ;
- (c) notice in accordance with the provisions of section 8(1) of the Act shall be in Form 3.

**SCHEDULE**  
**(Section 3)**

**KNOW ALL MEN WHOM IT MAY CONCERN**

THAT, whereas on the ..... day of ..... 19...

and

(hereinafter referred to as the "FARMER")

residing at ..... and of postal address .....

concluded an agreement in terms of which the "FARMER" is indebted to the "BANK" in certain sums of money, and in terms of which agreement it was agreed that the Agricultural Charges Act, 1967, would apply to the said agreement.

NOW THEREFORE the "BANK" acting through its authorised agent and the "FARMER" do hereby certify as correct a certificate of indebtedness as referred to in section 4 of the Act as follows —

1. The full names, place of residence and postal address of the said farmer are as set out above.
2. The place of signature of the certificate is .....
3. It is hereby acknowledged that the "BANK" has through its agent .....

explained fully to the "FARMER", the legal effect of making the said agreement subject to provision of the said Act, and the "FARMER" hereby acknowledges himself to have fully understood the explanation and the legal effect of the said agreement being subject to the provisions of the said Act.

4. It is hereby certified by the "PARTIES" and acknowledged by the "FARMER", that in terms of the said agreement that the "FARMER", is indebted to the "BANK", in the sum of R ..... plus interest at ..... % repayable in equal instalments, including interest, over a period of ..... years as set out below —

[illegible]

Provided that if the "FARMER" fails to carry out any terms of the agreement in full capital and interest shall forthwith fall due.

\*5. It is further certified and acknowledged that in terms of the said agreement the terms of section 11 of the Act apply to said agreement and in terms of the said agreement the following assets of the farmer ..... are subject to hypothecation to the "BANK" in terms of the said section.

\*6. That in terms of the said agreement, the following agricultural produce.....  
.....  
may only be sold by the "FARMER" to any of the following buyers —

NAME	ADDRESS

\*7. In terms of the said agreement the "BANK" has the right under section 14 of the Act to take possession of .....  
(being movable assets of the "FARMER") and realise them in accordance with the provisions of that section.

SIGNED AND CERTIFIED AS CORRECT IN ACCORDANCE WITH THE AGRICULTURAL CHARGES ACT, 1967.

**Dated and Executed by the "BANK"**

At ..... on the .....

**Witnesses**

1. ....  
.....  
BANK

2. ....

SIGNED AND CERTIFIED AS CORRECT IN ACCORDANCE WITH THE AGRICULTURAL CHARGES ACT, 1967.

**Dated and Executed by the "FARMER"**

At ..... on the .....

**Witnesses**

1. ....  
.....  
FARMER

2. ....

\* Delete if inapplicable.



**D.198**

FORM 2

**THE AGRICULTURAL CHARGES ACT, 1967**

**NOTICE BY THE NATIONAL DEVELOPMENT BANK TO A BUYER IN  
TERMS OF SECTION 7(5)**

TO:

THE REGISTRAR OF DEEDS,

AND TO:

(hereinafter referred to as "the Buyer")  
TAKE NOTICE THAT WHEREAS

(hereinafter referred to as the "FARMER") has entered into an Agreement with the

**NATIONAL DEVELOPMENT BANK OF BOTSWANA**

(hereinafter referred to as the "BANK") in terms of which Agreement the "FARMER" is indebted to the "BANK" in certain sums of money and whereas the "FARMER" has

hypothecated .....  
to the "BANK" in accordance with the provisions of the Agricultural Charges Act, 1967:

AND WHEREAS in terms of the Agreement the "FARMER" is restricted to selling his said livestock and or agricultural produce to certain nominated Buyers:

AND WHEREAS the "FARMER" has applied to the "BANK" for authorisation to sell his agricultural produce to or through you the Buyer and whereas the "BANK" has agreed thereto:

NOW THEREFORE take notice that the "BANK" determines in terms of section 7(5) of the Agricultural Charges Act, 1967, that you are a Buyer to whom or through whom the said "FARMER" is authorised to sell his said agricultural produce and or livestock.

DATED at GABERONES this        day of        19

.....  
MANAGER  
NATIONAL DEVELOPMENT BANK

FORM 3

## THE AGRICULTURAL CHARGES ACT, 1967

**NOTICE BY THE NATIONAL DEVELOPMENT BANK TO  
A BUYER IN TERMS OF SECTION 8(1)**

TO:

(hereinafter referred to as "the Buyer")  
TAKE NOTICE THAT WHEREAS

.....  
(hereinafter referred to as the "FARMER") has entered into an Agreement with the

**NATIONAL DEVELOPMENT BANK OF BOTSWANA**

(hereinafter referred to as the "BANK") in terms of which Agreement, the "FARMER" is indebted to the "BANK" in certain sums of money and in terms of which Agreement the

"FARMER" has hypothecated .....

.....  
in favour of the "BANK" in terms of the Agricultural Charges Act, 1967, and whereas the "BANK" has registered a Certificate of Indebtedness in terms of the said Act against the name of the "FARMER", in the office of the Registrar of Deeds;

AND WHEREAS you the Buyer have been specified as a Buyer in terms of the said Act to whom or through whom the "FARMER" may sell his livestock and or agricultural produce as defined in the said Act;

AND WHEREAS the "FARMER" is still indebted to the "BANK" which debt has not been paid in terms of the Agreement entered into between the "FARMER" and the "BANK";

NOW THEREFORE notice is hereby served on you the Buyer notifying you that moneys are owing to the "BANK" by the "FARMER" and that the "BANK" invokes the provisions of section 8 of the Act and that in terms of subsection (2) of section 8 you are hereby required, subject to the provisions of that section, to pay to the "BANK" any moneys owing by you to the "FARMER" by reason of the sale of

.....  
which may from time to time hereafter be owing by you to the "FARMER" by reason of the sale of .....

up to an amount of ...../ until the "BANK" notifies you in accordance with the provisions of section 8(3) of the Act that the debt owing by the "FARMER" is satisfied or that it no longer wishes to enforce its rights under the Act\*.

DATED at GABERONES this        day of        19       

.....  
MANAGER  
NATIONAL DEVELOPMENT BANK

\*Delete whatever is inapplicable.

Ministry of Finance,  
GABERONES.  
19th July, 1967.

A.J. BEEBY,  
Financial Secretary.

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**Statutory Instrument No. 36 of 1967.**

**FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (AMENDMENT) REGULATIONS, 1967**

In the exercise of the powers vested in him by section 93 of the Fauna Conservation Proclamation, 1961 (Proclamation No. 22 of 1961) the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Fauna Conservation (Amendment) Regulations, 1967.

**Amendment of Government Notice No. 52 of 1961**

2. The Fauna Conservation Regulations, 1961, as published in Government Notice No. 52 of 1961 are amended by the addition to the Schedule of the following forms —

**D.202**

**“  
FORM 11**

**REPUBLIC OF BOTSWANA**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**APPLICATION FOR A TROPHY DEALER'S LICENCE**  
(Section 66)

To the District Commissioner,

....., Republic of Botswana.

In terms of section 66 of the Fauna Conservation Proclamation, 1961 (No. 22 of 1961),  
I hereby apply for a trophy dealer's licence for my fixed premises at

.....

.....  
Signature of Applicant

The applicant is requested to complete the following form in his own handwriting; —

1. Full Name .....
2. Address .....  
.....
3. Occupation .....
4. Name of Employer .....
5. Employer's Address .....  
.....
6. Description of premises for which the licence is required .....  
.....
7. What other trading licence do you hold?
  - (1) .....
  - (2) .....
  - (3) .....
  - (4) .....

D.203

FORM 12

**REPUBLIC OF BOTSWANA**

**THE FAUNA CONSERVATION PROCLAMATION, 1961.**

**TROPHY DEALER'S LICENCE (Not transferable)**  
(Section 66)

Register .....  
Folio .....

Head: Licences — Game

In terms of section 66 of the Fauna Conservation Proclamation, 1961 (No. 22 of 1961),  
Licence is hereby granted.

to ..... of .....  
for fixed premises at .....  
to carry on the business of a trophy dealer for the period .....  
to .....

Fee Paid: R .....

.....  
Licencing Officer

.....

??

P.W. REARDON,  
Permanent Secretary,

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
19th July, 1967.



**Statutory Instrument No. 37 of 1967**

**FAUNA CONSERVATION PROCLAMATION, 1961**

**FAUNA (POWERS OF HONORARY OFFICERS) REGULATIONS, 1967**

In the exercise of the powers vested in him by section 93 as read with section 89 (2) of the Fauna Conservation Proclamation, 1961 (Proclamation No. 22 of 1961) the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Fauna (Powers of Honorary Officers) Regulations, 1967.

**Powers of Honorary Officers**

2. Honorary officers appointed in terms of section 89 of the Fauna Conservation Proclamation, 1961, shall have the powers conferred upon a game officer under the provisions of section 81, 83 and 88 of that Proclamation.

P.W. REARDON,  
Permanent Secretary,

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
19th July, 1967.





## Statutory Instrument No. 38 of 1967

## ADMINISTRATION OF ESTATES PROCLAMATION (CHAPTER 83)

THE ADMINISTRATION OF ESTATE (REMUNERATION OF EXECUTORS, CURATORS  
AND TUTORS) REGULATIONS, 1967

(Published on 28th July, 1967)

In exercise of the powers vested in him by section 118 of the Administration of Estates Proclamation (Chapter 83) His Excellency the President hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Administration of Estates (Remuneration of the Executors, Curators and Tutors) Regulations, 1967.

**Authorised Remuneration**

2. The remuneration of Executors, Curators and Tutors shall be assessed and taxed by the Master according to the following tariff:

Provided that the Master may, in his discretion, authorise a variation from this tariff in special cases if he sees fit:

**(a) Movable**

On the net proceeds of tangible movables sold (furniture, livestock, jewellery, vehicles etc.) ..... 5%

Awarded to beneficiaries or administrator, or taken over by surviving spouse..... 2½%

On bare *dominium* value of movables subject to a still-existing usufruct..... 2½%

On the balance of the purchase price collected of movables sold by deceased under hire-purchase ..... 5%

On such balance awarded to heirs..... 2½%

**(b) Mortgage Bonds**

Realized or repaid..... 2½%

Taken over or ceded to beneficiaries or administrator..... 1¼%

**(c) Landed Property**

On net proceeds of sale..... 2½%

On purchase price of property sold in lifetime of deceased but still to be transferred to purchaser..... 1¼%

together with —

On portion of purchase price still to be paid by purchaser..... ¾%

Taken over, specially bequeathed or transferred to heirs..... 1¼%

On bare *dominium* value of landed property subject to a usufruct ..... 2½%

## D.208

On landed property to remain in estate in terms of will until some future date. . . . .  
1¼%

together with —

When sold or transferred to beneficiaries. . . . . ¾%

On balance of purchase price still to be collected if sold by deceased on hire-  
purchase . . . . . 2½%

together with —

1% on amount paid before death

Taken over by surviving spouse under section 51 of the Proclamation. . . . . 1¼%

### (e) *Shares and Securities*

(These include Government Stock, Savings Certificates and permanent and contribu-  
tory shares in building societies and similar institutions).

Realized. . . . . 2½%

Taken over or ceded to beneficiaries. 1¼%

### (f) *Insurance Policies*

Proceeds of Insurance Policies. . . . . 2½%

(Where there is a loan or premiums due to the insurer and these are deducted from  
the proceeds, only 1% is allowed on the portion of the proceeds withheld).

Surrender value of policies, and present-day (i.e. discounted) value of future in-  
stalments and ultimate capital payment of income policies, taken over or awarded  
to beneficiaries. . . . . 1¼%

If actually surrendered or discounted . . . . . 2½%

### (g) *Claims in Favour of Estate*

Promissory notes and bills of exchange collected. . . . . 5%

Book debts collected (other than mortgage bonds). . . . . 5%

Rents, interest, salaries, etc. . . . . 5%

If any of the above items are not collected, but are taken over or awarded to bene-  
ficiaries or an administrator. . . . . 2½%

Cheques. . . . . 1%

Amount of debts due by legatees or heirs set off against legacy or inheritance. .  
1%

Debt due by executor. . . . . 1%

Amount awarded to deceased from other estates (including proceeds of foreign  
estate remitted to Botswana)

(a) If executor of deceased's estate is not same person as executor in other  
estate. . . . . 2½%

(b) If executor is same person as executor in other estate. . . . . 1%

On bare *dominium* value of amount awarded from other estates but subject to usufruct of some person.....2½%

Moneys with townships, agents, sharebrokers..... 1%

(h) *Goodwill*

On value of goodwill.....1%

(If business is sold as going concern and no distinction is made as to goodwill the rate of commission will depend upon the nature of the assets sold e.g. movables 5% immovables 2½%)

(i) *Partnership*

If the assets of the partnership are separately shown and separately dealt with, the rate of remuneration will be according to the nature of the asset and according to whether it is sold or awarded to the beneficiaries, as set out above.

If the partnership agreement provides for the payment for deceased's interest, on the amount payable.....2½%

If deceased's interest is sold as a whole ..... 2½%

(j) *Sundry Rights*

Mineral rights sold.....2½%

Mineral rights taken over or awarded to beneficiaries..... 1¼%

Option and prospecting contract moneys collected..... 5%

Awarded to beneficiaries or administrator.....1¼%

Stock exchange rights sold.....2½%

Awarded to beneficiaries or administrator..... 1¼%

Liquor licence sold..... 2½%

Awarded to beneficiaries or administrator..... 1¼%

(k) *Fiduciary and usufructuary Property*

Where the deceased was the fiduciary or usufructuary in respect of any property which must be dealt with in the estate duty affidavit the Master will usually allow the executor some remuneration which is charged against the property concerned. The executor should consult the Master as to the fee he will allow.

Where there has been intermingling of such property with the deceased's so that it cannot be identified and the successors have only personal claims for its value, the executor is entitled to the normal commission on all the assets found in the estate.

(l) *Nominal Fee in Small Estates*

The Master will normally allow the following in small estate where he consider this tariff is inadequate:

Estate up to R100 ..... R6.30

Estate up to R200 ..... R8.40

Estate up to R400 ..... R12.60

**D.210**

Estate up to R600 .....	R14.00
Estate up to R800 .....	R21.00
Estate up to R1000 .....	R28.00

**Revocation**

3. High Commissioner's Notice No. 125 of 1933 (as published on page 1121 of the Revised Edition of the Laws) is hereby revoked.

A. MOGWE,  
for Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
7th July, 1967

**Statutory Instrument No. 39 of 1967.**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (HUNTING ON STATE LAND) (AMENDMENT)  
REGULATIONS, 1967**

(Published on 11th August, 1967)

In exercise of the powers vested in him by section 93 as read with section 4 (2) of the Fauna Conservation Proclamation, 1961, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Fauna Conservation (Hunting on State Land) (Amendment) Regulations, 1967.

**Amendment of Section 6 of Statutory Instrument No. 25 of 1967.**

2. The Fauna Conservation (Hunting on State Land) Regulations, 1967, are amended in regulation 6 by the deletion of "R400" and the substitution of "R200".

P.W. REARDON, .  
Permanent Secretary.

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
2nd August, 1967.

D.212

Statutory Instrument No. 40 of 1967.

THE FAUNA CONSERVATION PROCLAMATION, 1961

**OPEN SEASON FOR THE HUNTING OF SPECIFIED GAME ANIMALS**

In exercise of powers conferred upon him by section 27 of the Fauna Conservation Proclamation, 1961 (Proclamation No. 22 of 1967) the Minister of Commerce, Industry and Water Affairs hereby declares that it shall be lawful to hunt within Botswana the game animals —

- (a) specified in Part A of the Third Schedule to the said Proclamation during the whole of the year;
  - (b) specified in Part B of the Third Schedule during the period from the 15th of March to the 15th November in any year, both dates inclusive.
2. Legal Notice No. 26 of 1965 is cancelled.

P.W. REARDON,  
Permanent Secretary.

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
1st August, 1967.

**Statutory Instrument No. 41 of 1967**

**THE TOWNSHIPS PROCLAMATION (CHAPTER 120)**

**TOWN COUNCIL REGULATIONS, 1966**

**FRANCISTOWN GENERAL BYE-LAWS, 1967**

It is hereby notified that His Excellency the President has, in terms of regulation 32 of the Town Council Regulations, 1966, published in Legal Notice No. 37 of 1966, approved of the following bye-laws made by the Francistown Town Council under the provisions of section 31 of the aforesaid regulations —

**ARRANGMENT OF BYE-LAWS**

*Bye-laws*

**PRELIMINARY**

1. Title
2. Interpretation

**PART I**

**HEALTH AND SANITATION**

3. Latrine Accommodation to be Provided.
4. Mosquitoes and Pests.
5. Prevention of Accumulation of Refuse.
6. Swimming Pools and Fish Ponds.
7. Overcrowding.

**PART II**

**LIVESTOCK AND OTHER ANIMALS**

8. Keeping of Livestock.
9. Yapping etc. of Dogs and Bitches in Season.
10. Troublesome or Dangerous Animals.
11. Bees, Pigeons and Poultry.
12. Powers of Council.

**PART III**

**STREETS**

13. Naming of Streets.
14. Numbering of Houses.
15. Hoardings.
16. Bills, Posters, Placards or Advertisements.
17. Trees.



**PART IV**

**FIRE CONTROL MEASURES**

18. Accumulation of Inflammable or Combustible Materials.
19. Grass Fences
20. Storing of Inflammable, Combustible or Explosive Substances.
21. Burning of Grass, Refuse or Rubbish.
22. Fire-Fighting Appliances in Public Buildings.
23. Attendance of Fire Brigade at Fires.

**PART V**

**FOOD PREMISES**

24. Construction : General
25. Construction : Bakeries
26. Construction : Butcheries and Fishmongers' shops.
27. Existing Food Premises.
28. Operation of Bakeries.
29. Operation of Butcheries and Fishmongers' Shops.
30. Personal Cleanliness.
31. Health of Employees.
32. Conveyance, Handling, Storage and Sale of Food-stuffs.
33. Canned Food.

**PART VI**

**MISCELLANEOUS**

34. Noise and Nuisance.
35. Collection for Charity.
36. Protection of Common Property.
37. Offences and Penalties.

**PRELIMINARY**

**Title.**

1. These bye-laws may be cited as the Francistown General Bye-Laws, 1966.

**Interpretation.**

2. In these bye-laws, unless inconsistent with the content —

“approved” means approved by the Council or by any duly authorised officer of the Council ;

“baker” means any person who carries on the business of selling whether by whole-sale or retail bakery products baked or made by him ;

“bakery” means any premises on which is carried on any of the processes of or incidental to baking or the manufacture or storage of bakery products for use by persons other than those residing on the premises :

“bakery products” includes bread, biscuits, rolls, tarts, cakes, pies, confectionery or

sweetmeats ;

“business premises” means any premises which are used or intended to be used as a place of trade or industry ;

“butcher” means any person who sells or exposes for sale or supplies butcher’s meat for human consumption ;

“butchery” means any premises used for the purpose of carrying on the business of a butcher ;

“butchers meat” means the flesh or offal of any animal intended for human consumption or any products manufactured therefrom, but does not include canned or potted meats, biltong, ham, sausages, bacon, salted and other prepared meats, fish, poultry or venison ;

“council” means the Francistown Town Council ;

“dwelling” means any house, room, shed, hut or any other structure or plan whatsoever, any portion whereof is used by any human being for sleeping in or in which any human being dwells ;

“fixed date” means the date of the coming into operation of these bye-laws ;

“food premises” means any premises which are used or intended to be used as a place for the preparation, manufacture, keeping, storing, depositing, conveying, handling and exposing for sale of food and drink ;

“food” or “foodstuffs” means any thing whatsoever (other than drugs or water), in any form, state or stage of preparation, which is ordinarily used or intended to be used for human consumption ;

“habitable room” means any room used or intended to be used as a sleeping, living or work room ;

“latrine” means any building, erection or place adapted or constructed for the use of human beings for the purposes of defecation or urination ;

“livestock” means any domestic bovine animal, goat, sheep, swine, horse, donkey or mule ;

“occupier” means, in relation to any lot or premises ;

(a) any person in actual occupation of such lot or premises and having charge or management thereof ; or

(b) in the event of the lot or premises being unoccupied by anybody other than an employee of the person having charge or management thereof, any person having such charge or management ;

“official” means any duly appointed official of the Council ;

“owner” means, in relation to —

(a) any animal, in addition to its ordinary meaning, any person having the charge custody or control of any animal and the occupier of any premises where any animal is kept or permitted to remain ;

(b) any lot or premises, the person in whose name the title to such lot or premises is registered and includes an agent of the owner or any person receiving or entitled to receive rent in respect of such lot or premises.

## **D.216**

“poultry” means any fowl, turkey, goose or duck ;

“premises” means any building or part thereof, store, shop, tenement or other erection above or below the ground and the land used or occupied in connection therewith ;

“slaughter house” includes any abattoir, slaughter pole or place set apart for slaughtering livestock, the meat of which is intended to sell ;

“stable” includes a cowshed, stall, pen or sty ;

“street” means any street, square, road, lane, footpath, pavement, thoroughfare or public place extending in width from the boundary of any lot or area of land and shall include any work or thing forming part of or connected with such street ;

“waste-water” means any discharge of a non-excremental nature from any waste-water fitment, gully trap, grease trap or laundry ;

### **PART I**

#### **HEALTH AND SANITATION**

##### **Latrine accommodation to be provided.**

3. (1) The owner of any premises within the Council area shall —

- (a) provide proper and sufficient latrine accommodation for all persons residing or employed thereon ;
- (b) provide a minimum of one latrine for every fifteen persons.

(2) No person shall defecate in the Council area elsewhere than in a latrine.

(3) The Council may, by notice in writing to the owner or occupier of any premises within the Council area, prohibit the use of any latrine which by reason of faulty construction or neglect or from any other cause has, in the opinion of the Council, become or is likely to become a nuisance or a danger to public health until such nuisance or danger has been abated to the satisfaction of the Council.

##### **Mosquitoes and Pests.**

4. Every owner and occupier of any lot or premises within the Council area shall, in respect of such lot or premises —

- (a) maintain all water receptacles, such as tanks, cisterns, casks, pails and other contrivances for the storage or retention of water for any period in excess of twenty-four hours covered so as to prevent the ingress of mosquitoes ;
- (b) keep guttering and drainpipes in good repair and condition and shall not allow such guttering and drainpipe to be in such condition as to collect water and prevent it from readily flowing away ;
- (c) ensure that no tin, bottle or other refuse, or article capable of holding water is thrown out or allowed to remain on any such lot or premises ;
- (d) ensure that every receptacle for the collection of slop water or household refuse is kept adequately covered ;
- (e) generally take adequate steps to prevent the breeding of mosquitoes or other pests.

**Prevention of Accumulation of refuse.**

5. No person shall place, pour, throw, leave or permit to remain on any lot or premises any refuse, excreta, nightsoil, filth, slops, exhaust water, waste liquid, yard flushing, stable litter, rubbish, garden refuse, dirt or other offensive matter or any dead animal, broken crockery, glass or tins in such place or in such manner or for such time as to endanger health, or to favour the breeding or harbouring of flies or mosquitoes, or to encourage rats or other vermin to frequent such land or premises, or to cause any nuisance or to be likely to interfere with the comfort of the inhabitants of the Council area.

**Swimming pools and fish ponds.**

6. Every person occupying premises on which is situated a swimming pool or fish pond shall take such precautions as may be required by the Council to prevent the breeding of mosquitoes in such swimming pool or fish pond and shall ensure that the water contained therein is always fresh and free from unpleasant or insanitary matter.

**Overcrowding.**

7. No room in any dwelling shall be used for human habitation unless there is provided for every person over the age of fourteen years four hundred cubic feet of air space and forty square feet of floor space, and for every person below the age of fourteen years three hundred cubic feet of space and thirty square feet of floor space.

**PART II**

**LIVESTOCK AND OTHER ANIMALS**

**Keeping of Livestock.**

8. (1) No person shall without the written consent of the Council keep any livestock on any residential plot.

(2) The Council may prohibit the use of any stable, cowshed, pen or site which in the opinion of the Council is unfit, undesirable or objectionable by reason of its locality, construction, condition or manner of use.

**Yapping etc. of Dogs and Bitches in Season.**

9. (1) No person shall permit the yapping, whining or barking of dogs so as to disturb the comfort of any inhabitants of the Council area.

(2) No person shall allow any bitch to be at large at such times as she is on heat or in season.

**Troublesome or dangerous animals.**

10. No person shall allow any wild, troublesome, ferocious or dangerous dog, monkey, carnivorous wild animal or reptile to be at large off the premises on which such animal normally is kept.

**Bees, pigeons, and poultry.**

11. No person shall keep any bees, pigeons or poultry so as to disturb the comfort of the inhabitants of the Council area.

## **D.218**

### **Powers of the Council.**

12. The Council may order the seizure and detention of any livestock, poultry, dog, monkey, carnivorous wild animal or reptile found at large within the Council area, and if such animal is not claimed within seven days the Council may order its sale or destruction.

## **PART III**

### **STREETS**

#### **Naming of streets.**

13. (1) The Council may name or alter the name of any street.

(2) The Council may from time to time, at its own expense, paint upon or affix to any building or erect in any street, the name of such street.

#### **Numbering of houses.**

14. (1) The Council may from time to time allot numbers to each house or building in any street for the purpose of distinguishing such house or building and may alter such numbers from time to time as it may deem necessary.

(2) The owner of any house or building to which a number has been allotted by the Council shall affix or paint the number so allotted in a conspicuous place facing on to the street in which such number has been allotted and shall maintain such number in good order and condition so as to be clearly legible from the other side of the street on to which it faces.

#### **Hoardings.**

15. No hoardings shall be erected within the Council area except with the written consent of the Council. The Council shall withhold its consent only if it considers the hoardings to be a distraction to motorists or objectionable in substance, presentation or scale.

#### **Bills, posters, placards or advertisements.**

16 (1) No bill, poster, placard or advertisement shall be displayed within the Council area without the written consent of the Council. The Council shall withhold its consent only if it considers the display of the bill, poster, placard or advertisement to be a distraction to motorists or objectionable in substance, presentation or scale.

(2) The Council may stipulate the time within which bills, posters, placards or advertisements shall be removed.

(3) Nothing contained in subsection (1) shall prevent any person holding a licence to trade in the Council area from erecting any bills, posters, placards or advertisements on or within the building to which his licence applies, provided that the Council does not object to the nature and substance of such bills, posters, placards or advertisement.

(4) Any bill, poster, placard or advertisement which has been erected in the Council area without the Council's consent or to which the Council objects may be removed by the Council.

**Trees.**

17. No person shall fell or damage any tree or shrub in any street or public place except with the written consent of the Council.

**PART IV**

**FIRE CONTROL MEASURES**

**Accumulation of inflammable or combustible materials.**

18. (1) The owner and occupier of any property shall take all reasonable precautions to prevent the accumulation or deposit of straw, wood, paper or other inflammable or combustible material on the property which could cause damage or danger from fire to any person, animal or building or to any adjacent property.

(2) Where, in the opinion of the Council, an owner or occupier has allowed the accumulation or deposit of straw, wood, paper or other inflammable or combustible material on his property, the Council may, by notice in writing to such owner or occupier, order him to remove such accumulation within a period of not less than three days, which period shall be stipulated in such notice, and it shall thereupon be the duty of the owner or occupier to do so.

**Grass fences.**

9. If, in the opinion of the Council, any fence of grass, rushes or reeds is erected in such a position or is allowed to fall into such a state of disrepair that it gives rise to a danger of fire spreading therefrom to any buildings, the Council may, by notice in writing, order the fence to be removed and the owner, or in his absence, the occupier of the premises upon which the fence is situated, shall remove the fence.

**Storing of inflammable, combustible or explosive substances.**

20. (1) Except with the written permission of the Council, no person shall store any inflammable, combustible or explosive substance on any property :

Provided that —

- (i) it shall be permissible for any person to store, in a closed-top container or other approved receptacle at his place of residence or at his place of business, not more than a total of five gallons of petrol, paraffin, methylated spirits or other such inflammable substance which is used for household purposes, in addition to the fuel contained in the fuel tank of any motor vehicle ;
- (ii) the provisions of this section shall not apply to —
  - (a) liquor a person may store at his place of residence or at his place of business ;
  - (b) petrol, paraffin, methylated spirits, oil or other such inflammable substance which is stored at a garage, service station or petrol filling station.

(2) In granting permission in terms of subsection (1) the Council may impose such conditions as it deems necessary.

## **D.220**

### **Burning of grass, refuse or rubbish.**

21. (1) No person shall burn or set fire to any grass, refuse, rubbish or other material on any private property unless —

- (a) he is the owner or occupier of the property or has the permission of the owner or occupier thereof; and
- (b) he takes all reasonable precautions to avoid any annoyance to owners or occupiers of adjoining properties and to prevent the fire spreading to such adjoining properties; and
- (c) he ensures that no buildings are endangered by the burning of such grass, refuse, rubbish or other material.

(2) No person, other than an employee of the Council, shall burn or set fire to any grass, refuse, rubbish or other material on any street, or public open space.

### **Fire-fighting appliances in public buildings.**

22. (1) The owner of any hall, shop, offices or other building to which the public has access shall, if required by the Council, provide such building with portable fire extinguishers at the rate of one extinguisher for every 2,500 square feet or part thereof.

(2) The owner of any such building shall fix any extinguisher which he is required to provide in a conspicuous and easily accessible position and shall maintain the extinguisher in good working order.

### **Attendance of fire brigade at fires.**

23. (1) In the event of a fire brigade attending upon any fire the officer in charge of the fire brigade party shall have full control over the property on fire and over such other property as he may consider to be in danger for the purposes of taking such reasonable measures as he may deem necessary to prevent the spread of and to extinguish the fire.

(2) In exercising his powers in terms of subsection (1), the officer in charge of the fire brigade party —

- (a) shall have the right of entry to any property and may by himself or through any person under his control break into, through, take possession of, or pull down buildings, but shall take all reasonable care to do as little damage as possible; and
- (b) shall have the right of access to any hydrant, pipe, cistern, borehole or other water supply and shall be entitled to draw water from such points of supply; and
- (c) may himself, or through any person under his control, divert, stop or regulate traffic in the vicinity of the fire; and
- (d) may temporarily close any street, passage, thorough-fare or greenway in the vicinity of the fire.

**PART V**  
**FOOD PREMISES**

**Construction : general.**

24. (1) No person shall erect or occupy any food premises within the Council area unless the following provisions have been complied with —

- (a) the premises shall be constructed of brick, concrete or other approved material ;
- (b) the internal faces of the walls shall be tiled, or plastered with a cement plaster and the surface brought to a smooth face and painted with three coats of oil paint, washable distemper or other approved decoration to a height of not less than six feet ;
- (c) the floor shall, unless otherwise provided in these bye-laws, be —
  - (i) of concrete; or
  - (ii) of wood ventilated to prevent dryrot and rendered impervious to rodents ;
- (d) the height of the walls from floor to ceiling shall be not less than ten feet ;
- (e) the premises shall be provided with a dustproof ceiling ;
- (f) every room shall be lighted and ventilated by a window or windows of an area not less than one-tenth of the floor area and capable of being opened to at least one-twentieth of the floor area of such room. Alternatively an approved system of forced ventilation or air conditioning shall be provided ;
- (g) the premises shall be provided with a supply of clear hot and cold water and washing facilities to enable employees to keep clean and washing up facilities to enable all utensils, storage facilities, linen and protective clothing to be kept clean.

(2) No food premises shall be used for sleeping accommodation and no portion of such premises shall communicate by door, window or otherwise with any sleeping or living room.

**Construction : bakeries.**

25. No person shall erect or occupy any bakery within the Council area unless the following provisions have been complied with in addition to the provisions of section 24

- (a) no portion of any bakery shall be underground, save that with the written consent of the Council an underground room may be used as a store provided that no articles other than those specified in such written consent shall be stored therein ;
- (b) the floors shall be of smooth, impervious material ;
- (c) no door or window opening which communicates with a bakery shall be less than ten feet from any latrine ;
- (d) the doors of the bakehouse shall be self-closing and all doors and windows shall be provided with effective fly-screens ;
- (e) the opening of the oven furnace shall not be situated in any room or at any place where any foodstuffs are handled and shall be situated at least six feet from the nearest part of any door or window of the bakery ;



## **D.222**

- (f) a dressing room shall be provided in which the overalls of the employees can be kept in a clean and sanitary condition. Such room shall be separate from any place where utensils or foodstuffs are handled or stored.

### **Construction : butcheries and fishmonger's shops.**

26. No person shall erect or occupy any butchery or fishmonger's shop within the Council area unless the following provisions have been complied with, in addition to the provisions of bye-law 24 —

- (a) no door or window opening in any room wherein butcher's meat or fish is stored, handled or placed for sale shall be so placed as to be less than ten feet from any latrine ;
- (b) the floors shall be of cement or concrete at least three inches in thickness and topped with granolithic or other impervious material at least three-quarter-inch in thickness ;
- (c) the doors shall be self-closing and all doors and windows shall be provided with effective fly screens ;
- (d) cold rooms compartments or cupboards shall be provided for the storage of meat or fish and such cold rooms, compartments or cupboards shall be operated constantly at a temperature of not more than forty-five degrees Fahrenheit.

### **Existing food premises.**

27. The provisions of section 24 (1) (b), (d) and (e), section 25 (d) and (e), and section 26 (c) shall not apply to any food premises existing at the fixed date and owned or occupied by a person who was the owner or occupier of the said premises at the fixed date until six months have elapsed after written notice has been served on such owner or occupier by the Council requiring compliance with the aforesaid provisions.

### **Operation of bakeries.**

28. (1) Every person carrying on the trade of a baker in the Council area shall —

- (a) cause all inside walls and ceilings of his bakery to be kept in a clean and sanitary condition with three coats of either oil paint, washable distemper or an approved equivalent :

Provided that —

- (i) where oil paint is used it shall be renewed at least once in every five years or as often as required by the Council ;
  - (ii) where washable distemper is used it shall be renewed at least once in every twelve months ;
  - (iii) if any portion of the walls is tiled it shall be sufficient to wash such portion with hot water and soap to ensure adequate cleanliness ;
- (b) keep every part of his bakery and all vessels and utensils carts and other vehicles, sacks, baskets and other receptacles used in connection with the preparation, conveyance and storage of bakery products in a clean and wholesome state ;

## D.223

- (c) ensure that all persons employed in the bakery are clean and dressed in clean overalls while so employed;
- (d) maintain a supply of soap and clean towels for the use of all persons employed in the bakery;
- (e) take all practical measures to maintain his premises free from rodents, flies, cockroaches and other insects;
- (f) provide means of protecting all bakery products, by glazed or fly-screened show-cases or cabinets from contamination by dust, dirt or flies, while exposed for sale, or by means of closed or covered containers or vehicles when in the course of conveyance in any public thoroughfare;
- (g) cause the floor of the bakehouse to be washed daily.

(2) Every baker shall mix all dough, batter or paste by means of approved mixing machines and shall not himself or by his servants mix such dough, batter or paste by hand or in any other way than in and by such mixing machines:

Provided that a baker may mix by hand any dough, batter or paste in a quantity not exceeding ten pounds in weight in a suitable mixing utensil for confectionery purposes.

(3) No bakery shall use or permit to be used soiled paper or soiled material of any description for the purpose of covering or wrapping bakery products.

### **Operation of butcheries and fishmongers' shops.**

29. (1) No butcher or fishmonger shall keep or allow to be kept in, or allow to enter into his shop or any premises connected therewith, any live animal or bird;

Provided that poultry intended for slaughter and sale may be kept in such place as may be approved in writing by the Council.

(2) Every person carrying on the trade of a butcher or fishmonger in the Council area shall —

- (a) keep every part of his shop in good order and repair and in a clean and sanitary condition;
- (b) keep thoroughly clean all knives and other instruments and appurtenances, machinery and vehicles used in cutting or handling or moving butchers' meat or fish;
- (c) provide receptacles of galvanized iron or other non-absorbent material with close-fitting covers for collecting and conveying from his shop all refuse;
- (d) ensure that all persons employed in the shop or delivering butchers' meat or fish are clean and dressed in clean overalls while so employed;
- (e) maintain a supply of soap and clean towels for the use of all persons employed in the shop.

### **Personal cleanliness.**

30. (1) Every person employed in any premises where food is handled or offered for sale shall wash his hands with soap and water before commencing work.

(2) No person in any food premises shall expectorate or blow his nose except into a handkerchief or a tissue which he uses as a handkerchief and disposes of in a sanitary

## **D.224**

fashion.

(3) No person shall smoke in the mixing room, kneading room or baking room of any bakery, or in any place where such smoking is likely to defile foodstuffs deposited or exposed for sale.

### **Health of employees.**

31. No employer shall permit any person suffering from any infectious or contagious disease to be employed in or about any food premises and on the occurrence of any such disease amongst any of the persons employed or residing on such premises the employer shall immediately report such occurrence to the Council.

### **Conveyance, handling, storage and sale of foodstuffs.**

32. (1) No person shall convey or deposit or cause to be conveyed or deposited or exposed for sale any foodstuffs in an unwholesome, unclean or offensive manner or in such a way as to be unnecessarily or improperly exposed to contamination and no person shall stand, sit or recline on any foodstuff which is being conveyed or has been deposited or is exposed for sale.

(2) No person shall load onto or transport in any vehicle any carcass if such vehicle contains blood, viscera, intestines or offal and no person shall convey any carcass unless it be completely covered with a clean covering.

(3) No person shall sell, expose for sale or deliver any butcher's meat in the Council area unless such meat has been obtained from a slaughter-house or place approved in writing by the Council.

(4) No person shall slaughter any animal for human consumption in the Council area except at such slaughter-house or approved place.

(5) All vehicles used for the conveyance of meat shall be constructed of or lined with an impervious substance and shall be maintained in good repair and provided with covering to protect the meat therein from contamination by dust or flies, and no person shall convey meat in a vehicle which does not comply with this sub-by-law.

(6) All utensils, including trays, bins and other containers, and all knives, forks and other tools used for handling or storing foodstuffs shall be constructed of stainless steel, galvanized sheet iron, plastic or other non-corrosive and non-staining material and no person shall handle or store any foodstuffs with tools or in containers which do not comply with this sub-by-law.

(7) Any person who sells, exposes for sale or delivers fruit, vegetables, bakery products or other foodstuffs shall protect such foodstuffs from dust and flies.

(8) Person loading or unloading meat shall wear clean protective clothing including overalls and headgear.

(9) No person shall sell, expose for sale or deliver any bakery products in the Council area unless such bakery products have been obtained from a bakery approved in writing by the Council.

### **Canned food.**

33. No person shall sell, prepare, keep, transmit or expose for sale any meat, fish, fruit, vegetable, jam, condensed milk or any other article of food which is packed in a

hermetically sealed tin or other airtight receptacle if such tin or receptacle is —

- (a) blown so that there is unnatural bulging of the flat or concave side or ends of the container or so that gas escapes on puncturing ;
- (b) extensively rusted ;
- (c) damaged so that it leaks or otherwise becomes unsealed or shows evidence of having been punctured and having had the puncture re-sealed.

## PART VI

### MISCELLANEOUS

#### Noise and Nuisance.

34. No person shall —

- (a) operate or cause or permit to be operated any wireless, loud-speaker, gramophone, amplifier or similar instrument to the annoyance of the occupants or inmates of any premises in the neighbourhood ;
- (b) operate any wireless, musical instrument, loudspeaker or other similar device for the purpose of advertising on or adjacent to any street without the prior consent of the Council ;
- (c) continue to make any loud or unseemly noise or disturbance either by shouting, screaming or yelling or by blowing upon any horn or other instrument or by beating upon any drum or other instrument so as to annoy, disturb or interfere with the rest, peace or tranquillity of the inhabitants, after having been requested to desist by any member of the police or by any other person so annoyed, disturbed or inconvenienced ;
- (d) continue to ring any bell or sound any horn or blow any whistle or use any noisy instrument or shout in any market square, street, park or public place for the purpose of attracting customers, or hawk, sell or distribute any article or thing whatsoever to the annoyance, disturbance or inconvenience of any person who uses such market square, street, park or public place after having been requested to desist by any member of the police or the person so annoyed, disturbed or inconvenienced ;
- (e) between the hours of 5 p.m. and 7.30 a.m. carry on any business trade or industry involving the use of machinery which by reason of the noise created by it is offensive or constitutes a nuisance or which disturbs the comfort or peace of the inhabitants of the Council area nor shall any person use any such machinery on Sundays or such public holidays as are recognized in the relevant business, trade or industry.

#### Collection for Charity.

35. (1) No collection of moneys or attempt to collect money shall take place within the Council area without the prior written consent of the Council.

(2) The Council may in granting its consent to the collections of money impose such conditions as it deems fit.

**D.226**

**Protection of Common Property.**

36. No person shall cause any damage to any property to which the inhabitants of the Council area have a common right. Anyone convicted of such an offence may, in addition to any penalty imposed under bye-law 37, be ordered to pay compensation for such damage.

**Offences and Penalties.**

37. (1) Any person who obstructs or hinders the Council in the exercise of its duties under the provisions of these bye-laws or who fails to comply with any of the provisions of bye-laws 3 (2), 8 (1), 9, 11, 15, 16, 18, 19, 21, 34 or 36 shall be guilty of an offence and shall be liable of first conviction to a fine not exceeding R10.00 or, in default of payment thereof, imprisonment for a period of 14 days, and on a second or subsequent conviction to a fine not exceeding R50.00, or, in default of payment thereof, imprisonment for a period of two months.

(2) Any person who fails to comply with any of the provisions of bye-laws 4, 5, 6, 10, 17, 20, 22, 28, 29, 30, 31, 32 or 33 shall be guilty of an offence and shall be liable on conviction of a fine not exceeding R100.00, or, in default of payment thereof, imprisonment for a period of 3 months.

(3) Any person who fails to comply with any of the provisions of bye-laws 3 (1), 7, 24, 25 or 26 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R200.00, or, in default of payment thereof, imprisonment for a period of 6 months.

P.J. HEADY,  
for Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
8th August, 1967.

**Statutory Instrument No. 42 of 1967.**

**CONSTITUTION OF BOTSWANA**

**RULES OF PROCEDURE OF THE HOUSE OF CHIEFS (AMENDMENT NO. 2), 1967**

In exercise of the powers vested in them by section 84 of the Constitution, the House of Chiefs, with the approval of His Excellency the President, hereby makes the following Rules —

**Title**

1. These Rules may be cited as the rules of Procedure of the House of Chiefs (Amendment No. 2), 1967.

**Amendment of Legal Notice No. 27 of 1965**

2. The Rules of Procedure of the House of Chiefs (hereinafter referred to as the principal Rules) are amended by the deletion of "Legislative Assembly" wherever it appears and the substitution of "National Assembly".

**Amendment of Rule 10 of Legal Notice No. 27 of 1965**

3. The principal Rules are amended in sub-rule (1) of Rule 10 by the deletion of "five" and the substitution of "seven".

**Amendment of Rule 16 of Legal Notice No. 27 of 1965**

4. The principal Rules are amended in paragraph (c) of sub-rule (1) of Rule 16 by the deletion of "Her Majesty's Commissioner" and the substitution of "the President, Vice-President".

**Amendment of Rule 32 of Legal Notice No. 27 of 1965**

5. The principal Rules are amended in Rule 32 —

- (a) in sub-rule (6) by the deletion of "Her Majesty, or of Her Majesty's Commissioner" and the substitution of "the President";
- (b) by the deletion of sub-rule (7);
- (c) in sub-rule (8) by the deletion of "Her Majesty's Commissioner or of any other person performing the functions of Her Majesty's Commissioner" and the substitution of "the President or of any person performing the functions of President";
- (d) by the re-numbering of sub-rule (8) as sub-rule (7).

**Amendment of the Heading of Part VIII of Legal Notice No. 27 of 1965**

6. Part VIII of the principal rules is amended in the heading thereof by the deletion of "DRAFT".

**Amendment of Rule 39 of Legal Notice No. 27 of 1965**

7. The principal Rules are amended in Rule 39 by —

- (a) the deletion in sub-rule (1) of "the draft of" and the substitution of "in terms of"

**D.228**

section 89 (2) of the Constitution” ;

(b) the deletion of “draft” or “draft Bill” wherever these expressions appear and the substitution of “Bill” ;

(c) the deletion in sub-rule (10) of “Minister concerned” and the substitution of “Clerk to the National Assembly”.

**Replacement of Rule 40 of Legal Notice No. 27 of 1965**

8. The principal Rules are amended by the deletion of Rule 40 and the substitution of —

**“Procedure on Draft Bills**

40. The provisions of Rule 39 shall have effect for the consideration of any draft Bill referred to the House by the Government as they have for the consideration of Bills ;

Provided that resolutions thereon shall be submitted to the Minister concerned.”.

**Amendment of Rule 42 of Legal Notice No. 27 of 1965.**

9. Rule 42 of the principal Rules is amended by the deletion of “Her Majesty’s Commissioner” and the substitution of “the President”.

**Replacement of First Schedule of Legal Notice No. 27 of 1965**

10. The principal Rules are amended by the deletion of the First Schedule and the substitution of —

**“FIRST SCHEDULE  
(Rule 2)**

(Holding the Bible by his right hand)

I, .....  
do swear that I will be faithful and bear true allegiance to the Republic of Botswana, and that I will preserve, protect and defend the Constitution of Botswana as by law established.

So help me God.

Signed ..... ”.

P.J. HEADY,  
Secretary to the House of Chiefs.

House of Chiefs,  
GABERONES.  
15th August, 1967.

**D.229**

**Statutory Instrument No. 43 of 1967.**

**PUBLIC HOLIDAYS PROCLAMATION (CHAPTER 144)**

**DECLARATION OF A PUBLIC HOLIDAY**

In the exercise of the powers vested in him by section 3 of the Public Holidays Proclamation (Chapter 144) His Excellency the President hereby appoints the Monday following Botswana Day to be a public holiday within Botswana whenever Botswana Day falls upon a Saturday.

**T. MOLEFHE,**  
Private Secretary to the President.

Office of the President,  
GABERONES.  
21st August, 1967.





**D.231**

**Statutory Instrument No. 44 of 1967.**

**THE EDUCATION LAW, 1966**

**THE EDUCATION (SECTION 15(2)) NOTICE, 1967**

In the exercise of his powers under section 1(2) of the Education Law, 1966 (Law No. 40 of 1966), it is hereby notified by the Minister of Education, Health and Labour as follows —

**Short Title**

1. This notice may be cited as the Education (Section 15(2)) Notice, 1967.

**Bringing into Operation of Section 15(2) of the Education Law, 1966**

2. The 1st January, 1968, is appointed as the day on which section 15(2) of the Education Law, 1966, shall come into operation.

**B. MOOKODI,**  
Acting Permanent Secretary.

Ministry of Education, Health and Labour,  
GABERONES.  
29th August, 1967.

**Explanatory Note :**

The effect of this notice is to require all existing schools to be registered under Part III of the Education Law before the 1st January, 1968.

(This note is not part of the notice but is intended to indicate its general effect).

**Statutory Instrument No. 45 of 1967.**

**THE EDUCATION LAW, 1966**

**THE EDUCATION (REGISTRATION OF SCHOOLS) REGULATIONS, 1967**

In exercise of the powers vested in him by section 30 of the Education Law, 1966 (No. 40 of 1966), the Minister of Education, Health and Labour hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Education (Registration of Schools) Regulations, 1967.

**Interpretation**

2. In these regulations —  
“the Act” means the Education Law, 1966 (No. 40 of 1966);  
“the Minister” means the Minister of Education, Health and Labour.

## **D.232**

### **Application for Registration**

3. (1) An application for registration by a Local Education Authority in terms of section 17(1) of the Law shall be submitted in duplicate in Form 1.

(2) An application for registration by a person other than a Local Education Authority in terms of section 17(2) of the Law shall be submitted in duplicate in Form 2.

(3) An application from which is omitted any information required to complete the form or which is incomplete in any other material respect shall not be an application for the purposes of the Law or these regulations,

(4) Except in the case of applications for the registration of a primary or secondary school an applicant for registration shall state the courses of instruction to be offered by the school.

(5) Every application for the registration of a school shall be accompanied by —

- (a) a list showing the full names and qualifications of staff employed at, or to be employed at, the school ;
- (b) a sketch map showing the location of the school ;
- (c) a plan of the school buildings.

(6) An application for registration may be made by lodging the appropriate form with an education officer or assistant education officer for the district or township in which the school is situated.

(7) It shall be the duty of the education officer or assistant education officer with whom an application form is lodged under subregulation (6), forthwith to transmit the form to the appropriate authority in terms of section 17 of the Law.

### **Existing Schools**

4. An application for the registration of a school existing before the date of commencement of the Law shall be made on or before the 1st of October, 1967, either by lodging the form prescribed in regulation 3 with the appropriate authority in terms of section 17 of the Law or in accordance with regulation 3(6).

### **Certificate of Registration**

5. (1) Where the Director registers a school under the provisions of section 18 of the Law he shall issue a certificate of registration to the owner or manager of that school.

(2) The certificate of registration shall be kept with, and form part of the records of the school which may be inspected in accordance with the provisions of section 27 of the Law.

### **Change in Establishment**

6. (1) An application for the change in the establishment of a school in terms of section 19 of the Law shall be made —

- (a) by a Local Education Authority in Form 3 ;
- (b) by any other person in Form 4 ;

and shall be accompanied by the certificate of Registration of the School.

(2) An application from which is omitted any information required to complete the form or which is incomplete in any other material respect shall not be an application for the purposes of the Law or these regulations.

#### **Classification of Schools**

7. (1) For the purpose of registration schools shall be classified in the manner prescribed in the first column hereunder and, in respect thereof, the abbreviations listed opposite in the second column may be used in the register established under section 14 of the Law, in any form, and in any other document required by or under the Law —

<i>First Column</i>	<i>Second Column</i>
primary: to denote primary schools	P
secondary: to denote a school providing education subsequent to primary education by a course leading to an approved secondary leaving certificate;	S
other: to denote a school other than a primary or secondary school	O

(2) The abbreviations "P" and "S" may be followed by a number which shall designate the number of the highest class in the school.

#### **Classes**

8. Primary and secondary schools may be divided into classes on the following basis —

- (a) primary schools may be divided into classes which shall be styled Standards 1, 2, 3, 4, 5, 6 and 7; Standard 1 being the lowest class and Standard 7 the highest;
- (b) secondary schools may be divided into classes which shall be styled Forms I, II, III, IV, V and VI: Form I being the lowest class and Form VI the Highest.

#### **Register of Schools**

9. The register established in terms of section 14(1) of the Law shall be in Form 5.

#### **Record of Teachers**

10. The record of teachers kept for the purposes of section 21(1)(a) of the Law shall be in Form 6.

D.234

SCHEDULE

Form 1

(RS1)

BOTSWANA -- Ministry of Education, Health and Labour.

**APPLICATION BY A LOCAL EDUCATION AUTHORITY  
FOR REGISTRATION OF A SCHOOL**

*(Regulation 3(1) Education (Registration of Schools) Regulations, 1967)*

(This may be lodged with the Education Officer or Assistant Education Officer who will forward it to the director of Education)

1. Name of School:
2. If a school has been previously registered on this site, state the registration number:
3. (a) Name and address of owner or owners:  
(b) Name and address of Manager or Managers if different from (a):
4. Location of school (a) District or Town:  
(b) Village;  
(One copy of a sketch-map should be attached to the top copy).
5. Details of buildings: (Attach a plan to top copy)
6. Distance from nearest school of similar classification giving name of school and owner or manager:
7. Classification sought;
8. Number of streams in each class and highest class sought for each stream:
9. Boys', girls' or co-educational school:
10. Details of proposed staffing. Give number of teachers:  
(List of teachers to be attached to top copy, showing names and qualifications)
11. Courses of study to be followed, giving details of subjects (This does not apply to primary or secondary schools):
12. Maximum number of students:
13. Fees payable for --
  - (a) the instruction, including instruction in special subjects, of pupils:
  - (b) special courses of instruction provided for pupils:
  - (c) the accommodation, including boarding, provided for pupils:
  - (d) books and materials supplied to pupils:

Date: .....

for Local Education Authority

.....

..... District/Town Council

Form 2

(RS2)

BOTSWANA — Ministry of Education, Health and Labour

**APPLICATION BY A PERSON OTHER THAN A LOCAL EDUCATION  
AUTHORITY FOR REGISTRATION OF A SCHOOL**

*(Regulation 3(3) Education (Registration of  
Schools) Regulations, 1967)*

(To be completed in duplicate and lodged with the Local Education Authority which  
will forward the application with its report to the Director of Education)

1. Name of School :
2. If a school has been previously registered on this site, state the registration number ;
3. (a) Name and address of owner or owners :  
(b) Name and address of manager or managers if different from (a) :
4. Location of school (a) District :  
(b) Village :  
(One copy of a sketch-map should be attached to the top copy)
5. Details of buildings (Attach a plan to top copy) :
6. Distance from nearest school of similar classification giving name of school and owner or manager :
7. Classification sought :
8. Number of streams in each class and highest class sought for each stream :
9. Boys', girls' or co-educational school ;
10. Details of proposed staffing. Give number of teachers :  
(List of teachers to be attached to top copy, showing names and qualifications)
11. Courses of study to be followed, giving details of subjects (This does not apply to primary or secondary schools) :
12. Maximum number of students :
13. Fees payable for —  
(a) the instruction, including instruction in special subjects, of pupils :  
(b) special courses of instruction provided for pupils :  
(c) the accommodation, including boarding, provided for pupils :  
(d) books and materials supplied to pupils :

Date : ..... Signature of  
Owner(s) .....  
or  
Manager(s) .....

To the Director of Education

Registration is *recommended*  
not recommended  
(state reasons)

Date : .....

..... for Local Education Authority

..... District/Town Council

D.238

FORM 5

SCHOOL REGISTER

1. Name and Postal Address of School .....
2. Name and Address of Owner or Owners .....
3. Name and Address of Manager or Managers (if different from 2) .....
4. Location of School (a) District or Town .....  
(b) Village .....
5. Details of buildings .....
6. Distance from nearest school of similar classification .....
7. Classification .....
8. Number of streams in each class and highest class for each stream .....
9. Boys', girls or co-educational school .....
10. Details of staffing .....
11. Courses of study .....
12. Maximum number of students.....
13. Fees charged .....

FORM 6

Record of Teachers at ..... School

T.S. No.	Surname	Other Names	Nationality	M/F	Qual.	Where Obtained	Date First Employed	Date of Termination of Service	Manner of Termination

B. MOOKODI,  
Acting Permanent Secretary.

Ministry of Education, Health and Labour,  
GABERONES  
29th August, 1967.

**Statutory Instrument No. 46 of 1967.**

**AIR NAVIGATION (REGISTRATION AND LICENSING) REGULATIONS,  
1955**

**AIR NAVIGATION (AIRPORT SERVICES FEES) NOTICE, 1967**  
(Published on 15th September, 1967)

In exercise of the functions vested in him by regulation 24(2) of the Air Navigation (Registration and Licensing) Regulations as published under High Commissioner's Notice No. 85 of 1955, His Excellency the President hereby prescribes the following —

**Title and Application**

1. This notice may be cited as the Air Navigation (Airport Services Fees) Notice, 1967, and shall apply in relation to the aerodromes listed in the First Schedule.

**Landing Charges**

2. The charges detailed in Part I of the Second Schedule shall be payable by aircraft landing at the aerodromes to which this notice applies.

**Parking Charges**

3. The charges detailed in Part II of the Second Schedule shall be payable by aircraft parking at the aerodromes to which this notice applies.

**FIRST SCHEDULE**  
(Regulation 1)

The Government aerodromes at

Gaberones  
Maun  
Ghanzi  
Serondela



D.240

SECOND SCHEDULE  
(Regulations 2 and 3)

**PART I**  
Landing Charges

(a) in the case of aerodromes with bitumen surfaced runways —

<i>Aircraft weight in lbs.</i>	<i>For every Landing</i>
0 — 1,000 .....	0.75
1,001 — 2,000 .....	R 1.50
2,001 — 3,000 .....	R 2.25
3,001 — 4,000 .....	R 3.00
4,001 — 5,000 .....	R 3.75
5,001 — 6,000 .....	R 4.50
6,001 — 7,000 .....	R 5.25
7,001 — 8,000 .....	R 6.00
8,001 — 9,000 .....	R 6.75
9,001 — 10,000 .....	R 7.50
10,001 — 11,000 .....	R 8.25
11,001 — 12,000 .....	R 9.00
12,001 — 13,000 .....	R 9.75
13,001 — 14,000 .....	R10.50
14,001 — 15,000 .....	R11.25
15,001 — 20,000 .....	R13.00
20,001 — 25,000 .....	R15.00
25,001 — 30,000 .....	R18.00

and thereafter for every additional 5,000 lbs or part thereof — ..... R3.50

(b) in the case of aerodromes other than aerodromes with bitumen surfaced runways —

<i>Aircraft weight in lbs.</i>	<i>For every Landing</i>
0 — 3,000 .....	R 0.50
3,000 — 7,000 .....	R 1.50
7,001 — 10,000 .....	R 2.50
10,001 — 15,000 .....	R 4.50
15,001 — 20,000 .....	R 5.25
20,001 — 25,000 .....	R 6.00
25,001 — 30,000 .....	R 7.00
and thereafter for every additional 5,000 lbs. or part thereof .....	R 1.00

For the purposes of this Schedule the weight of an aircraft shall be deemed to be its maximum total weight as set out in its certificate of airworthiness or its approved flight manual.

**D.241**

**PART II**  
Parking Charges

A charge of 50c shall be payable —

- (a) if the aircraft makes a single landing within any period of 24 hours and remains at the aerodrome for a continuous period of not less than six hours ; or
- (b) if the aircraft makes more than one landing within any period of 24 hours and remains at the aerodrome for periods that in the aggregate amount to not less than six hours ;

and thereafter a further charge of 50c shall be payable in respect of every period of 24 hours, or part thereof (exclusive of the first 24 hours following the landing) during which the aircraft remains at the aerodrome.

**T.J. MOLEFHE,**  
Private Secretary to the President.

Office of the President,  
GABERONES.  
7th September, 1967.



**Statutory Instrument No. 47 of 1967**

**THE TOWNSHIPS PROCLAMATION (CHAPTER 120)**

**TOWN COUNCIL REGULATIONS, 1966**

**LOBATSI GENERAL BYE-LAWS, 1967**

It is hereby notified that His Excellency the President has, in terms of regulation 32 of the Town Council Regulations, 1966, published in Legal Notice No. 37 of 1966, approved of the following bye-laws made by the Lobatsi Town Council under the provisions of section 31 of the aforesaid regulations —

**ARRANGMENT OF BYE-LAWS**

*Bye-laws*

**PRELIMINARY**

1. Title
2. Interpretation

**PART I**

**HEALTH AND SANITATION**

3. Latrine Accommodation to be Provided.
4. Mosquitoes and Pests.
5. Prevention of Accumulation of Refuse.
6. Swimming Pools and Fish Ponds.
7. Overcrowding.

**PART II**

**LIVESTOCK AND OTHER ANIMALS**

8. Keeping of Livestock.
9. Troublesome or Dangerous Animals.
10. Bees, Pigeons and Poultry.
11. Powers of Council.

**PART III**

**STREETS**

12. Naming of Streets.
13. Numbering of Houses.
14. Hoardings.
15. Bills, Posters, Placards or Advertisements.
16. Trees.

**D.244**

#### **PART IV**

##### **FIRE CONTROL MEASURES**

17. Accumulation of Inflammable or Combustible Materials.
18. Grass Fences
19. Storing of Inflammable, Combustible or Explosive Substances.
20. Burning of Grass, Refuse or Rubbish.
21. Fire-Fighting Appliances in Public Buildings.
22. Attendance of Fire Brigade at Fires.

#### **PART V**

##### **FOOD PREMISES**

23. Construction : General
24. Construction : Bakeries
25. Construction : Butcheries and Fishmongers' shops.
26. Existing Food Premises.
27. Operation of Bakeries.
28. Operation of Butcheries and Fishmongers' Shops.
29. Personal Cleanliness.
30. Health of Employees.
31. Conveyance, Handling, Storage and Sale of Food-stuffs.
32. Canned Food.

#### **PART VI**

##### **MISCELLANEOUS**

33. Noise and Nuisance.
34. Collection for Charity.
35. Protection of Common Property.
36. Offences and Penalties.

#### **PRELIMINARY**

##### **Title.**

1. These bye-laws may be cited as the Lobatsi General Bye-Laws, 1966.

##### **Interpretation.**

2. In these bye-laws, unless inconsistent with the content —

“approved” means approved by the Council or by any duly authorised officer of the Council;

“baker” means any person who carries on the business of selling whether by whole-sale or retail bakery products baked or made by him;

“bakery” means any premises on which is carried on any of the processes of or incidental to baking or the manufacture or storage of bakery products for use by persons other than those residing on the premises :

“bakery products” includes bread, biscuits, rolls, tarts, cakes, pies, confectionery or

sweetmeats ;

“business premises” means any premises which are used or intended to be used as a place of trade or industry ;

“butcher” means any person who sells or exposes for sale or supplies butcher’s meat for human consumption ;

“butchery” means any premises used for the purpose of carrying on the business of a butcher ;

“butchers meat” means the flesh or offal of any animal intended for human consumption or any products manufactured therefrom, but does not include canned or potted meats, biltong, ham, sausages, bacon, salted and other prepared meats, fish, poultry or venison ;

“council” means the Lobatsi Town Council ;

“dwelling” means any house, room, shed, hut or any other structure or plan whatsoever, any portion whereof is used by any human being for sleeping in or in which any human being dwells ;

“fixed date” means the date of the coming into operation of these bye-laws ;

“food premises” means any premises which are used or intended to be used as a place for the preparation, manufacture, keeping, storing, depositing, conveying, handling and exposing for sale of food and drink ;

“food” or “foodstuffs” means any thing whatsoever (other than drugs or water), in any form, state or stage of preparation, which is ordinarily used or intended to be used for human consumption ;

“habitable room” means any room used or intended to be used as a sleeping, living or work room ;

“latrine” means any building, erection or place adapted or constructed for the use of human beings for the purposes of defecation or urination ;

“livestock” means any domestic bovine animal, goat, sheep, swine, horse, donkey or mule ;

“occupier” means, in relation to any lot or premises ;

(a) any person in actual occupation of such lot or premises and having charge or management thereof ; or

(b) in the event of the lot or premises being unoccupied by anybody other than an employee of the person having charge or management thereof, any person having such charge or management ;

“official” means any duly appointed official of the Council ;

“owner” means, in relation to —

(a) any animal, in addition to its ordinary meaning, any person having the charge custody or control of any animal and the occupier of any premises where any animal is kept or permitted to remain ;

(b) any lot or premises, the person in whose name the title to such lot or premises is registered and includes an agent of the owner or any person receiving or entitled to receive rent in respect of such lot or premises.

**D.246**

"poultry" means any fowl, turkey, goose or duck ;

"premises" means any building or part thereof, store, shop, tenement or other erection above or below the ground and the land used or occupied in connection therewith ;

"slaughter house" includes any abattoir, slaughter pole or place set apart for slaughtering livestock, the meat of which is intended to sell ;

"stable" includes a cowshed, stall, pen or sty ;

"street" means any street, square, road, lane, footpath, pavement, thoroughfare or public place extending in width from the boundary of any lot or area of land and shall include any work or thing forming part of or connected with such street ;

"waste-water" means any discharge of a non-excremental nature from any waste-water fitment, gully trap, grease trap or laundry ;

**PART I**

**HEALTH AND SANITATION**

**Latrine accommodation to be provided.**

3. (1) The owner of any premises within the Council area shall —

(a) provide proper and sufficient latrine accommodation for all persons residing or employed thereon ;

(b) provide a minimum of one latrine for every fifteen persons.

(2) No person shall defecate in the Council area elsewhere than in a latrine.

(3) The Council may, by notice in writing to the owner or occupier of any premises within the Council area, prohibit the use of any latrine which by reason of faulty construction or neglect or from any other cause has, in the opinion of the Council, become or is likely to become a nuisance or a danger to public health until such nuisance or danger has been abated to the satisfaction of the Council.

**Mosquitoes and Pests.**

4. Every owner and occupier of any lot or premises within the Council area shall, in respect of such lot or premises —

(a) maintain all water receptacles, such as tanks, cisterns, casks, pails and other contrivances for the storage or retention of water for any period in excess of twenty-four hours covered so as to prevent the ingress of mosquitoes ;

(b) keep guttering and drainpipes in good repair and condition and shall not allow such guttering and drainpipe to be in such condition as to collect water and prevent it from readily flowing away ;

(c) ensure that no tin, bottle or other refuse, or article capable of holding water is thrown out or allowed to remain on any such lot or premises ;

(d) ensure that every receptacle for the collection of slop water or household refuse is kept adequately covered ;

(e) generally take adequate steps to prevent the breeding of mosquitoes or other pests.

**Prevention of Accumulation of refuse.**

5. No person shall place, pour, throw, leave or permit to remain on any lot or premises any refuse, excreta, nightsoil, filth, slops, exhaust water, waste liquid yard flushing, stable litter, rubbish, garden refuse, dirt or other offensive matter or any dead animal, broken crockery, glass or tins in such place or in such manner or for such time as to endanger health, or to favour the breeding or harbouring of flies or mosquitoes, or to encourage rats or other vermin to frequent such land or premises, or to cause any nuisance or to be likely to interfere with the comfort of the inhabitants of the Council area.

**Swimming pools and fish ponds.**

6. Every person occupying premises on which is situated a swimming pool or fish pond shall take such precautions as may be required by the Council to prevent the breeding of mosquitoes in such swimming pool or fish pond and shall ensure that the water contained therein is always fresh and free from unpleasant or insanitary matter.

**Overcrowding.**

7. No room in any dwelling shall be used for human habitation unless there is provided for every person over the age of fourteen years four hundred cubic feet of air space and forty square feet of floor space, and for every person below the age of fourteen years three hundred cubic feet of space and thirty square feet of floor space.

**PART II**

**LIVESTOCK AND OTHER ANIMALS**

**Keeping of Livestock.**

8. (1) No person shall without the written consent of the Council keep any livestock on any residential plot.

(2) The Council may prohibit the use of any stable, cowshed, pen or site which in the opinion of the Council is unfit, undesirable or objectionable by reason of its locality, construction, condition or manner of use.

**Troublesome or dangerous animals.**

9. No person shall allow any wild, troublesome, ferocious or dangerous monkey, carnivorous wild animal or reptile to be at large off the premises on which such animal normally is kept.

**Bees, pigeons, and poultry.**

10. No person shall keep any bees, pigeons or poultry so as to disturb the comfort of the inhabitants of the Council area.

**Powers of the Council.**

11. The Council may order the seizure and detention of any livestock, poultry, monkey, carnivorous wild animal or reptile found at large within the Council area, and if such animal is not claimed within seven days the Council may order its sale or destruction.



### **PART III**

#### **STREETS**

##### **Naming of streets.**

12. (1) The Council may name or alter the name of any street.

(2) The Council may from time to time, at its own expense, paint upon or affix to any building or erect in any street, the name of such street.

##### **Numbering of houses.**

13. (1) The Council may from time to time allot numbers to each house or building in any street for the purpose of distinguishing such house or building and may alter such numbers from time to time as it may deem necessary.

(2) The owner of any house or building to which a number has been allotted by the Council shall affix or paint the number so allotted in a conspicuous place facing on to the street in which such number has been allotted and shall maintain such number in good order and condition so as to be clearly legible from the other side of the street on to which it faces.

##### **Hoardings.**

14. No hoardings shall be erected within the Council area except with the written consent of the Council. The Council shall withhold its consent only if it considers the hoardings to be a distraction to motorists or objectionable in substance, presentation or scale.

##### **Bills, posters, placards or advertisements.**

15. (1) No bill, poster, placard or advertisement shall be displayed within the Council area without the written consent of the Council. The Council shall withhold its consent only if it considers the display of the bill, poster, placard or advertisement to be a distraction to motorists, or objectionable in substance, presentation or scale.

(2) The Council may stipulate the time within which bills, posters, placards or advertisements shall be removed.

(3) Nothing contained in subsection (1) shall prevent any person holding a licence to trade in the Council area from erecting any bills, posters, placards or advertisements on or within the building to which his licence applies, provided that the Council does not object to the nature and substance of such bills, posters, placards or advertisement.

(4) Any bill, poster, placard or advertisement which has been erected in the Council area without the Council's consent or to which the Council objects may be removed by the Council.

##### **Trees.**

16. No person shall fell or damage any tree or shrub in any street or public place except with the written consent of the Council.

**PART IV**  
**FIRE CONTROL MEASURES**

**Accumulation of inflammable or combustible materials.**

17. (1) The owner and occupier of any property shall take all reasonable precautions to prevent the accumulation or deposit of straw, wood, paper or other inflammable or combustible material on the property which could cause damage or danger from fire to any person, animal or building or to any adjacent property.

(2) Where, in the opinion of the Council, an owner or occupier has allowed the accumulation or deposit of straw, wood, paper or other inflammable or combustible material on his property, the Council may, by notice in writing to such owner or occupier, order him to remove such accumulation within a period of not less than three days, which period shall be stipulated in such notice, and it shall thereupon be the duty of the owner or occupier to do so.

**Grass fences.**

18. If, in the opinion of the Council, any fence of grass, rushes or reeds is erected in such a position or is allowed to fall into such a state of disrepair that it gives rise to a danger of fire spreading therefrom to any buildings, the Council may, by notice in writing, order the fence to be removed and the owner, or in his absence, the occupier of the premises upon which the fence is situated, shall remove the fence.

**Storing of inflammable, combustible or explosive substances.**

19. (1) Except with the written permission of the Council, no person shall store any inflammable, combustible or explosive substance on any property :

Provided that —

(i) it shall be permissible for any person to store, in a closed-top container or other approved receptacle at his place of residence or at his place of business, not more than a total of five gallons of petrol, paraffin, methylated spirits or other such inflammable substance which is used for household purposes, in addition to the fuel contained in the fuel tank of any motor vehicle ;

(ii) the provisions of this section shall not apply to —

(a) liquor a person may store at his place of residence or at his place of business :

(b) petrol, paraffin, methylated spirits, oil or other such inflammable substance which is stored at a garage, service station or petrol filling station.

(2) In granting permission in terms of subsection (1) the Council may impose such conditions as it deems necessary.

**Burning of grass, refuse or rubbish.**

20. (1) No person shall burn or set fire to any grass, refuse, rubbish or other material on any private property unless —

(a) he is the owner or occupier of the property or has the permission of the owner or occupier thereof ; and

**D.250**

(b) he takes all reasonable precautions to avoid any annoyance to owners or occupiers of adjoining properties and to prevent the fire spreading to such adjoining properties; and

(c) he ensures that no buildings are endangered by the burning of such grass, refuse, rubbish or other material.

(2) No person, other than an employee of the Council, shall burn or set fire to any grass, refuse, rubbish or other material on any street, or public open space.

**Fire-fighting appliances in public buildings.**

21. (1) The owner of any hall, shop, offices or other building to which the public has access shall, if required by the Council, provide such building with portable fire extinguishers at the rate of one extinguisher for every 2,500 square feet or part thereof.

(2) The owner of any such building shall fix any extinguisher which he is required to provide in a conspicuous and easily accessible position and shall maintain the extinguisher in good working order.

**Attendance of fire brigade at fires.**

22. (1) In the event of a fire brigade attending upon any fire the officer in charge of the fire brigade party shall have full control over the property on fire and over such other property as he may consider to be in danger for the purposes of taking such reasonable measures as he may deem necessary to prevent the spread of and to extinguish the fire.

(2) In exercising his powers in terms of subsection (1), the officer in charge of the fire brigade party —

(a) shall have the right of entry to any property and may by himself or through any person under his control break into, through, take possession of, or pull down buildings, but shall take all reasonable care to do as little damage as possible; and

(b) shall have the right of access to any hydrant, pipe, cistern, borehole or other water supply and shall be entitled to draw water from such points of supply; and

(c) may himself, or through any person under his control, divert, stop or regulate traffic in the vicinity of the fire; and

(d) may temporarily close any street, passage, thorough-fare or greenway in the vicinity of the fire.

**PART V**  
**FOOD PREMISES**

**Construction : general.**

23. (1) No person shall erect or occupy any food premises within the Council area unless the following provisions have been complied with —

- (a) the premises shall be constructed of brick, concrete or other approved material;
- (b) the internal faces of the walls shall be tiled, or plastered with a cement plaster and the surface brought to a smooth face and painted with three coats of oil paint, washable distemper or other approved decoration to a height of not less than six feet;
- (c) the floor shall, unless otherwise provided in these bye-laws, be —
  - (i) of concrete; or
  - (ii) of wood ventilated to prevent dryrot and rendered impervious to rodents;
- (d) the height of the walls from floor to ceiling shall be not less than ten feet;
- (e) the premises shall be provided with a dustproof ceiling;
- (f) every room shall be lighted and ventilated by a window or windows of an area not less than one-tenth of the floor area and capable of being opened to at least one-twentieth of the floor area of such room. Alternatively an approved system of forced ventilation or air conditioning shall be provided;
- (g) the premises shall be provided with a supply of clear hot and cold water and washing facilities to enable employees to keep clean and washing up facilities to enable all utensils, storage facilities, linen and protective clothing to be kept clean.

(2) No food premises shall be used for sleeping accommodation and no portion of such premises shall communicate by door, window or otherwise with any sleeping or living room.

**Construction : bakeries.**

24. No person shall erect or occupy any bakery within the Council area unless the following provisions have been complied with in addition to the provisions of bye-law 23 —

- (a) no portion of any bakery shall be underground, save that with the written consent of the Council an underground room may be used as a store provided that no articles other than those specified in such written consent shall be stored therein;
- (b) the floors shall be of smooth, impervious material;
- (c) no door or window opening which communicates with a bakery shall be less than ten feet from any latrine;
- (d) the doors of the bakehouse shall be self-closing and all doors and windows shall be provided with effective fly-screens;
- (e) the opening of the oven furnace shall not be situated in any room or at any place where any foodstuffs are handled and shall be situated at least six feet from the nearest part of any door or window of the bakery;

**D.252**

- (f) a dressing room shall be provided in which the overalls of the employees can be kept in a clean and sanitary condition. Such room shall be separate from any place where utensils or foodstuffs are handled or stored.

**Construction : butcheries and fishmonger's shops.**

25. No person shall erect or occupy any butchery or fishmonger's shop within the Council area unless the following provisions have been complied with, in addition to the provisions of bye-law 23 —

- (a) no door or window opening in any room wherein butcher's meat or fish is stored, handled or placed for sale shall be so placed as to be less than ten feet from any latrine ;
- (b) the floors shall be of cement or concrete at least three inches in thickness and topped with granolithic or other impervious material at least three-quarter-inch in thickness ;
- (c) the doors shall be self-closing and all doors and windows shall be provided with effective fly screens ;
- (d) cold rooms compartments or cupboards shall be provided for the storage of meat or fish and such cold rooms, compartments or cupboards shall be operated constantly at a temperature of not more than forty-five degrees Fahrenheit.

**Existing food premises.**

26. The provisions of bye-law 23 (1) (b), (d) and (e), bye-law 24 (d) and (e), and bye-law 25 (c) shall not apply to any food premises existing at the fixed date and owned or occupied by a person who was the owner or occupier of the said premises at the fixed date until six months have elapsed after written notice has been served on such owner or occupier by the Council requiring compliance with the aforesaid provisions.

**Operation of bakeries.**

27. (1) Every person carrying on the trade of a baker in the Council area shall —

- (a) cause all inside walls and ceilings of his bakery to be kept in a clean and sanitary condition with three coats of either oil paint, washable distemper or an approved equivalent ;

Provided that —

- (i) where oil paint is used it shall be renewed at least once in every five years or as often as required by the Council ;
- (ii) where washable distemper is used it shall be renewed at least once in every twelve months ;
- (iii) if any portion of the walls is tiled it shall be sufficient to wash such portion with hot water and soap to ensure adequate cleanliness ;
- (b) keep every part of his bakery and all vessels and utensils carts and other vehicles, sacks, baskets and other receptacles used in connection with the preparation, conveyance and storage of bakery products in a clean and wholesome state ;

- (c) ensure that all persons employed in the bakery are clean and dressed in clean overalls while so employed;
- (d) maintain a supply of soap and clean towels for the use of all persons employed in the bakery;
- (e) take all practical measures to maintain his premises free from rodents, flies, cockroaches and other insects;
- (f) provide means of protecting all bakery products, by glazed or fly-screened show-cases or cabinets from contamination by dust, dirt or flies, while exposed for sale, or by means of closed or covered containers or vehicles when in the course of conveyance in any public thoroughfare;
- (g) cause the floor of the bakehouse to be washed daily.

(2) Every baker shall mix all dough, batter or paste by means of approved mixing machines and shall not himself or by his servants mix such dough, batter or paste by hand or in any other way than in and by such mixing machines:

Provided that a baker may mix by hand any dough, batter or paste in a quantity not exceeding ten pounds in weight in a suitable mixing utensil for confectionery purposes.

(3) No bakery shall use or permit to be used soiled paper or soiled material of any description for the purpose of covering or wrapping bakery products.

#### **Operation of butcheries and fishmongers' shops.**

28. (1) No butcher or fishmonger shall keep or allow to be kept in, or allow to enter into his shop or any premises connected therewith, any live animal or bird;

Provided that poultry intended for slaughter and sale may be kept in such place as may be approved in writing by the Council.

(2) Every person carrying on the trade of a butcher or fishmonger in the Council area shall —

- (a) keep every part of his shop in good order and repair and in a clean and sanitary condition;
- (b) keep thoroughly clean all knives and other instruments and appurtenances, machinery and vehicles used in cutting or handling or moving butchers' meat or fish;
- (c) provide receptacles of galvanized iron or other non-absorbent material with close-fitting covers for collecting and conveying from his shop all refuse;
- (d) ensure that all persons employed in the shop or delivering butchers' meat or fish are clean and dressed in clean overalls while so employed;
- (e) maintain a supply of soap and clean towels for the use of all persons employed in the shop.

#### **Personal cleanliness.**

29. (1) Every person employed in any premises where food is handled or offered for sale shall wash his hands with soap and water before commencing work.

(2) No person in any food premises shall expectorate or blow his nose except into a handkerchief or a tissue which he uses as a handkerchief and disposes of in a sanitary

## **D.254**

fashion.

(3) No person shall smoke in the mixing room, kneading room or baking room of any bakery, or in any place where such smoking is likely to defile foodstuffs deposited or exposed for sale.

### **Health of employees.**

30. No employer shall permit any person suffering from any infectious or contagious disease to be employed in or about any food premises and on the occurrence of any such disease amongst any of the persons employed or residing on such premises the employer shall immediately report such occurrence to the Council.

### **Conveyance, handling, storage and sale of foodstuffs.**

31. (1) No person shall convey or deposit or cause to be conveyed or deposited or exposed for sale any foodstuffs in an unwholesome, unclean or offensive manner or in such a way as to be unnecessarily or improperly exposed to contamination and no person shall stand, sit or recline on any foodstuff which is being conveyed or has been deposited or is exposed for sale.

(2) No person shall load onto or transport in any vehicle any carcass if such vehicle contains blood, viscera, intestines or offal and no person shall convey any carcass unless it be completely covered with a clean covering.

(3) No person shall sell, expose for sale or deliver any butcher's meat in the Council area unless such meat has been obtained from a slaughter-house or place approved in writing by the Council.

(4) No person shall slaughter any animal for human consumption in the Council area except at such slaughter-house or approved place.

(5) All vehicles used for the conveyance of meat shall be constructed of or lined with an impervious substance and shall be maintained in good repair and provided with covering to protect the meat therein from contamination by dust or flies, and no person shall convey meat in a vehicle which does not comply with this sub-by-law.

(6) All utensils, including trays, bins and other containers, and all knives, forks and other tools used for handling or storing foodstuffs shall be constructed of stainless steel, galvanized sheet iron, plastic or other non-corrosive and non-staining material and no person shall handle or store any foodstuffs with tools or in containers which do not comply with this sub-by-law.

(7) Any person who sells, exposes for sale or delivers fruit, vegetables, bakery products or other foodstuffs shall protect such foodstuffs from dust and flies.

(8) Person loading or unloading meat shall wear clean protective clothing including overalls and headgear.

(9) No person shall sell, expose for sale or deliver any bakery products in the Council area unless such bakery products have been obtained from a bakery approved in writing by the Council.

### **Canned food.**

32. No person shall sell, prepare, keep, transmit or expose for sale any meat, fish, fruit, vegetable, jam, condensed milk or any other article of food which is packed in a

hermetically sealed tin or other airtight receptacle if such tin or receptacle is —

- (a) blown so that there is unnatural bulging of the flat or concave side or ends of the container or so that gas escapes on puncturing ;
- (b) extensively rusted ;
- (c) damaged so that it leaks or otherwise becomes unsealed or shows evidence of having been punctured and having had the puncture re-sealed.

## PART VI

### MISCELLANEOUS

#### Noise and Nuisance.

33. No person shall —

- (a) operate or cause or permit to be operated any wireless, loud-speaker, gramophone, amplifier or similar instrument to the annoyance of the occupants or inmates of any premises in the neighbourhood ;
- (b) operate any wireless, musical instrument, loudspeaker or other similar device for the purpose of advertising on or adjacent to any street without the prior consent of the Council ;
- (c) continue to make any loud or unseemly noise or disturbance either by shouting, screaming or yelling or by blowing upon any horn or other instrument or by beating upon any drum or other instrument so as to annoy, disturb or interfere with the rest, peace or tranquillity of the inhabitants, after having been requested to desist by any member of the police or by any other person so annoyed, disturbed or inconvenienced ;
- (d) continue to ring any bell or sound any horn or blow any whistle or use any noisy instrument or shout in any market square, street, park or public place for the purpose of attracting customers, or hawk, sell or distribute any article or thing whatsoever to the annoyance, disturbance or inconvenience of any person who uses such market square, street, park or public place after having been requested to desist by any member of the police or the person so annoyed, disturbed or inconvenienced ;
- (e) between the hours of 5 p.m. and 7.30 a.m. carry on any business trade or industry involving the use of machinery which by reason of the noise created by it is offensive or constitutes a nuisance or which disturbs the comfort or peace of the inhabitants of the Council area nor shall any person use any such machinery on Sundays or such public holidays as are recognized in the relevant business, trade or industry.

#### Collection for Charity.

34. (1) No collection of moneys or attempt to collect money shall take place within the Council area without the prior written consent of the Council.

(2) The Council may in granting its consent to the collections of money impose such conditions as it deems fit.



**D.256**

**Protection of Common Property.**

35. No person shall cause any damage to any property to which the inhabitants of the Council area have a common right. Anyone convicted of such an offence may, in addition to any penalty imposed under bye-law 36, be ordered to pay compensation for such damage.

**Offences and Penalties.**

36. (1) Any person who obstructs or hinders the Council in the exercise of its duties under the provisions of these bye-laws or who fails to comply with any of the provisions of bye-laws 3 (2), 8 (1), 10, 14, 15, 17, 18, 20, 33 or 35 shall be guilty of an offence and shall be liable of first conviction to a fine not exceeding R10.00 or, in default of payment thereof, imprisonment for a period of 14 days, and on a second or subsequent conviction to a fine not exceeding R50.00, or, in default of payment thereof, imprisonment for a period of two months.

(2) Any person who fails to comply with any of the provisions of bye-laws 4, 5, 6, 9, 16, 19, 21, 27, 28, 29, 30, 31 or 32 shall be guilty of an offence and shall be liable on conviction of a fine not exceeding R100.00, or, in default of payment thereof, imprisonment for a period of 3 months.

(3) Any person who fails to comply with any of the provisions of bye-laws 3 (1), 7, 23, 24 or 25 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R200.00, or, in default of payment thereof, imprisonment for a period of 6 months.

J.A. ALLISON,  
Secretary to the Cabinet.

Cabinet Office,  
GABERONES.  
5th September, 1967.

**Statutory Instrument No. 48 of 1967****THE SUBORDINATE COURTS PROCLAMATION(CHAPTER 5)****THE SUBORDINATE COURTS (LOCAL LIMITS OF JURISDICTION) NOTICE, 1967**

In the exercise of the powers vested in him by section 5 of the Subordinate Courts Proclamation (Chapter 5) His Excellency the President hereby prescribes as follows –

**Title**

1. This notice may be cited as the Subordinate Courts (Local Limits of Jurisdiction) Notice, 1967.

**Local Limits of Jurisdiction of Certain Courts**

2. Subordinate courts of the First, Second or Third Class situated within a district listed in the first column hereunder shall have jurisdiction within all parts of the adjoining district set opposite thereto in the second column hereunder –

<i>First Column</i>	<i>Second Column</i>
Francistown	Northeast
Gaberones	Southeast
Lobatsi	Southeast

A.J. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
13th September, 1967.

**Statutory Instrument No. 49 of 1967.****THE FAUNA CONSERVATION PROCLAMATION, 1961****THE FAUNA CONSERVATION (AMENDMENT NO. 2) REGULATIONS, 1967**

In the exercise of the powers vested in him by section 93 of the Fauna Conservation Proclamation (No. 22 of 1961) the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Title**

1. These regulations may be cited as the Fauna Conservation (Amendment No. 2) Regulations, 1967.

**Insertion of Regulation 10 into Government Notice No. 52 of 1961**

2. The Fauna Conservation Regulations, 1961, as published in Government Notice No. 52 of 1961 (hereinafter referred to as the principal regulations) are amended by the addition of the following regulation —

D.258

**"Form of Distinctive Mark on Ivory and Rhinoceros Horn**

10. Ivory and rhinoceros horn marked under the provisions of section 69(1) of the Fauna Conservation Proclamation, 1961, at the Game Department Office at the place listed in the first column hereunder, shall bear the distinctive mark prescribed in the second column hereunder stamped upon the ivory or horn and shall be numbered consecutively, commencing with the number "001" —

*First Column*

Francistown  
Kasane  
Maun

*Second Column*

FRANCISTOWN  
KASANE  
MAUN"

**Addition of Further Prescribed Forms to Government Notice No. 52 of 1961**

3. The principal regulations are amended by the addition to the Schedule of the following forms —

*"FORM 13*

**REPUBLIC OF BOTSWANA**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**IVORY REGISTER**

(Section 69)

(In triplicate)

*Place:..... Month:.....*

Date	Name of Owner	Weight	Official Mark and Number	Licence No. if any and date of issue	No. of Cert. of Ownership	Remarks

To be submitted on the 1st of each month to:

The Chief Warden,  
Private Bag 4,  
GABERONES.

D.259

FORM 14

No.....

**REPUBLIC OF BOTSWANA**  
**THE FAUNA CONSERVATION PROCLAMATION, 1961**  
**CERTIFICATE OF OWNERSHIP**

*(Section 69(2))*

In terms of section 69(2) of the Fauna Conservation Proclamation, 1961 (No. 22 of 1961, authority is hereby granted to.....

to .....to have in his possession the following ivory:

Tusk Weight..... Distinctive Mark and No.....

Tusk Weight..... Distinctive Mark and No.....

Tusk Weight..... Distinctive Mark and No.....

Tusk Weight..... Distinctive Mark and No.....

Date:.....

.....  
*Authorised Officer''*

P.W. REARDON,  
Permanent Secretary.

Ministry of Commerce, Industry & Water Affairs,  
GABERONES.  
8th September, 1967.



**Statutory Instrument No. 50 of 1967.**

**BOTSWANA INDEPENDENCE ORDER 1966**

**CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
(NO. 10) ORDER, 1967**

(Published on 29th September, 1967)

In exercise of the powers vested in him by section 4(3) (a) of the Botswana Independence Order, 1966 His Excellency the President hereby makes the following Order —

**Citation**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) Order, 1967 (No. 10).

**Amendment of Section 2 of Law No. 17 of 1965**

2. Section 2 of the Pensions Law, 1965 (hereinafter referred to as the principal law)

(a) in subsection (1) is amended —

(i) by the insertion prior to the definition of “inducement allowance” of the following definition —

““Botswana” in relation to any period prior to the 30th September, 1966, means the Bechuanaland Protectorate;”;

(ii) by the insertion prior to the definition of “non-pensionable office” of the following definition —

““Lesotho” means in relation to any period prior to the 4th October, 1966, Basutoland;”;

(iii) by the deletion of paragraph (d) of the definition of “public service” and the substitution of —

“(d) any other service that the President may determine to be public service for the purposes of this Law;”;

(iv) by the insertion after the definition of “public service” of —

“Public Service Commission” in relation to an officer to whom the provisions of section 111 (2) of the Constitution are applicable, means the authority which, in terms of the Constitution, is empowered to remove such officer from office or, in cases where the provisions of section 118 of the constitution are applicable, the appropriate Commission for the purpose of that section;”;

(v) by the deletion of the definition of “Secretary of State”;

(b) by the deletion of subsection (4).

**Amendment of Section 3 of Law No. 17 of 1965**

3. Section 3 of the principal law is amended by the deletion of “President” and the substitution of “Minister acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution.”.

**D.262**

**Amendment of Section 6 of Law No. 17 of 1965**

4. Section 6 of the principal law is amended —
- (a) in subsection (1) by the deletion of "State" and the substitution of "Public Service Commission";
  - (b) in subsection (2) —
    - (i) by the deletion of "Where" and the substitution of "Subject to the provisions of section 118 of the Constitution, where";
    - (ii) by the deletion of "President" and the substitution of "Public Service Commission".

**Amendment of Section 7 of Law No. 17 of 1965**

5. Section 7 of the principal law is amended in paragraph (a) of subsection (1) —
- (a) in subparagraph (ii) by the deletion of, "on reduction of establishment, or on grounds of redundancy";
  - (b) in subparagraph (iv) by the deletion of "President" and the substitution of "Public Service Commission";
  - (c) by the deletion of subparagraph (v) and the substitution of —  
"“(v) on compulsory retirement in any other circumstances not amounting to dismissal.””.

**Amendment of Section 7A of Law No. 17 of 1965**

6. Section 7A of the principal law is amended —
- (a) in subsection (3) by the deletion of "Basutoland" and the substitution of "Lesotho";
  - (b) in subsection (5) by the deletion of "President" and the substitution of "Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution";
  - (c) in subsection (6) by the deletion of "Basutoland" wherever it appears and the substitution of "Lesotho".

**Amendment of Section 8 of Law No. 17 of 1965**

7. Section 8 of the principal law is amended by the deletion of the word "President" and of all words prior thereto and by the substitution of —  
"Subject to the provisions of section 118 of the Constitution, where an officer's service is terminated in terms of section 7 (1) (a) (v) and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Law, the Minister".

**Replacement of Section 9 of Law No. 17 of 1965**

8. Section 9 of the principal law is repealed and the following section is substituted —

**"Compulsory and Voluntary Retirement**

9. The Public Service Commission may require an officer to retire from the public service an officer may retire from such service —

- (a) on or at any time after attaining the age of fifty-five years ; or
- (b) at any time after attaining the age of forty-five years, subject to six months' notice in writing being given to or by the officer ; or
- (c) in the case of a female officer, on marriage."

**Amendment of Section 10 of Law No. 17 of 1965**

9. Section 10 of the principal law is amended —

- (a) by the deletion of the proviso to subsection (2) ;
- (b) by the insertion after subsection (2) of the following subsection —

"(2a) Where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purposes of subsections (1) and (2) to be —

- (i) where the right to commute any part of a pension in return for the payment of a gratuity has been exercised, the amount if that right had not been exercised ;  
or
- (ii) in all other cases, four-fifths of its actual amount."
- (c) in subsection (3) by the deletion of "President" and the substitution of "Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Section 11 of Law No. 17 of 1965**

10. Section 11 of the principal law is amended by the deletion of "If" at the commencement thereof and the substitution of "Subject to the provisions of section 118 of the Constitution, if".

**Amendment of Section 13 of Law No. 17 of 1965**

11. Section 13 of the principal law is amended —

- (a) in subsection (3) —
  - (i) by the deletion of "as he thinks fit" and the substitution of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution" ;
  - (ii) by the insertion after "the President" where it appears for the second time of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution" ;
- (b) in subsection (5) by the insertion after "President" of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Section 14 of Law No. 17 of 1965**

12. Section 14 of the principal law is amended by the addition of the following subsection —

"(6) In the exercise of his functions under this section the President shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution."



**D.264**

**Amendment of Section 15 of Law No. 17 of 1965**

13. Section 15 of the principal law is amended by the insertion after "President" where it appears for the second time of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Section 16 of Law No. 17 of 1965**

14. Section 16 of the principal law is amended by the deletion of "President may" wherever it appears and the substitution of "Minister may, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Section 16A of Law No. 17 of 1965**

15. Section 16A of the principal law is amended —

(a) in subsection (1) —

(i) by the deletion of "Where" at the commencement thereof and the substitution of "Subject to the provisions of section 118 of the Constitution, where";

(ii) by the deletion of "President" and the substitution of "Minister";

(b) in subsection (2) —

(i) by the deletion of "Where" at the commencement thereof and the substitution of "Subject to the provisions of section 118 of the Constitution, where";

(ii) by the deletion of "President" and the substitution of "Minister";

(c) in subsection (4) by the deletion of "President" wherever it appears and the substitution of "Minister".

**Amendment of Section 17 of Law No. 17 of 1965**

16. Section 17 of the principal law is amended —

(a) in subsection (1) by the deletion of "President" where it first appears and the substitution of "Minister";

(b) by the deletion of subsection (5);

(c) in subsection (6) by the deletion of "(i) (a)" and the substitution of "(1) (a)";

(d) by the addition of the following subsection —

"(10) In the exercise of their functions under this section the Minister and President shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Section 18 of Law No. 17 of 1965**

17. Section 18 of the principal law is amended by the insertion after "in time of war" of "prior to the 30th September, 1966".

**Amendment of Section 19 of Law No. 17 of 1965**

18. Section 19 of the principal law is amended by the deletion of "Basutoland" wherever it appears and the substitution of "Lesotho".

**Amendment of Regulation 9 of the Pensions Regulations, 1967**

19. Regulation 9 of the Pensions Regulations, 1965, as published in the Second

Schedule to the principal law (hereinafter referred to as the principal regulations) is amended in subregulation (4) by the deletion of "Basutoland" and the substitution of "Lesotho"

**Amendment of Regulation 15 of the Pensions Regulations, 1965**

20. Regulation 15 of the principal regulations is amended —

(a) in subregulation (1) by the deletion of "the State" and the substitution of "a scheduled administration";

(b) by the deletion in subregulation (2) of paragraph (c) and the substitution of —

"(c) who has left pensionable service —

(i) under any Acts relating to the Superannuation of teachers in the United Kingdom;  
or

(ii) under a local authority in the United Kingdom; or

(iii) under the National Health Service of the United Kingdom;

with a view to entering public service, not being pensionable service as aforesaid and has, not later than three months, or such extended period as the President may in any particular case approve, after leaving such pensionable service, received any salary in respect of employment in public service not so pensionable may, if the President, acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution, thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension being in lieu of —

(A) any pension previously granted to him from the funds of Botswana; and

(B) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation,

but additional to any gratuity so granted which is not required to be refunded as aforesaid."

**Amendment of Regulation 17 of the Pension Regulations, 1965**

21. Regulations 17 of the principal regulations is amended by the deletion of "Botswana" and the substitution of "the Bechuanaland Protectorate".

**Amendment of Regulation 23 of the Pensions Regulations, 1965**

22. Regulation 23 of the principal regulations is amended —

(a) in paragraph (b) of subregulation (3), by the insertion after "President" of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution";

(b) by the deletion of subregulation (6);

(c) in subregulation (8) by the insertion after "President" of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution";

(d) in paragraph (a) of subregulation (9) by the insertion after "President may" of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**D.266**

**Amendment of Regulation 24 of the Pensions Regulations, 1965**

23. The principal regulations are amended in regulation 24 —

- (a) by the deletion in paragraph (b) of subregulation (2) of "Secretary of State or to the President" and the substitution of "Minister";
- (b) in subregulation (3) by the deletion of "if he thinks fit" and the substitution of "with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution".

**Amendment of Regulation 25 of the Pensions Regulations, 1965**

24. The principal regulations are amended in regulation 25 by the deletion of "Where" at the commencement thereof and the substitution of "Subject to the provisions of section 118 of the Constitution, where".

T.J. MOLEFHE,  
Private Secretary to the President.

Office of the President,  
GABERONES.  
20th September, 1967.

**Statutory Instrument No. 51 of 1967**

**THE BOTSWANA INDEPENDENCE ORDER 1966**

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION  
OF EXISTING LAWS) (NO. 11) ORDER 1967**

(Published on 29th September, 1967)

In exercise of the powers vested in him by section 4(3) (a) of the Botswana Independence Order 1966 His Excellency the President hereby makes the following Order —

**Citation**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) (No. 12) Order 1967.

**Amendment of Section 4 of Chapter 5**

2. Section 4 of the Subordinate Courts Proclamation (Chapter 5) is amended —

(a) in subsection (1) by the insertion of the following paragraph after paragraph (c) —

“(d) every person appointed to the office of magistrate in accordance with the provisions of section 105 of the Constitution may hold a court of the First Class;”;

(b) by the deletion in subsection (2) of paragraph (a).

**Amendment of Section 4 of Chapter 124**

3. Section 4 of the Diamond Trade Proclamation (Chapter 124) is amended by the deletion of “President” and the substitution of “Minister”.

**Amendment of Section 107 of Law No. 41 of 1964**

4. Section 107 of the Prisons Law, 1964, is amended by the deletion in paragraph (w) of “the Colonial Prison Service Medal” and the substitution of “such medals as the President may be empowered to award”.

T.J. MOLEFHE,  
Private Secretary to the President.

Office of the President,  
GABERONES.  
15th September, 1967.

**D.268**

**Statutory Instrument No. 52 of 1967**

THE BOTSWANA HONOURS ACT, 1967

**THE BOTSWANA HONOURS REGULATIONS, 1967**

(Published on the 29th September, 1967)

In the exercise of the powers vested in him by section 4 of the Botswana Honours Act, 1967, His Excellency the President hereby makes the following regulations –

**Citation**

1. These regulations may be cited as the Botswana Honours Regulations, 1967.

**Interpretation**

2. In these regulations, unless the context otherwise requires –  
“recipient” means the person to whom an honour has been awarded.

**The Naledi Ya Botswana**

3. (1) The *Naledi ya Botswana* shall be struck in silver and shall be in the shape of a six-pointed star with a width of one and three quarter inches between the ends of diagonally opposite rays, and with a circular disk in the middle with a diameter of seven eighths of an inch, the obverse consisting, in relief, of the Coat of Arms of Botswana and the legend “REPUBLIC OF BOTSWANA” and the reverse having engraved upon it the words “FOR CONSPICUOUS SERVICE”, the name of the recipient and the date of the award.

(2) The honour shall be worn on the left breast, pendent from a silver clasp, affixed to a silk ribbon one and a half inches in width and consisting of vertical stripes from left to right in the following colours and of the following widths –

Azure blue: Seven sixteenths of an inch.  
White: One eighth of an inch.  
Black: Three eighths of an inch.  
White: One eighth of an inch.  
Azure blue: Seven sixteenths of an inch.

(3) The award of the honour shall entitle the recipient to add the letters N.Y.B. after his name, but shall not entitle him to any individual precedence.

**The Cross of Gallantry**

4. (1) The Cross of Gallantry shall be struck in silver in the shape of an equal armed cross with a width of one and three quarter inches between the ends of diagonally opposite arms and with a circular disc in the middle with a diameter of seven eighths of an inch, the obverse consisting, in relief, of the Coat of Arms of Botswana and the legend “REPUBLIC OF BOTSWANA” and the reverse having engraved upon it the words “FOR GALLANTRY”, the name of the recipient and the date of the award.

(2) The honour shall be worn on the left breast, pendent from a silver clasp affixed to a silk ribbon one and a half inches in width and consisting of vertical stripes from left to right in the following colours and of the following width –

White: One eighth of an inch.  
Azure blue: Seven sixteenths of an inch.  
Black: Three eighths of an inch.

Azure blue: Seven sixteenths of an inch.  
White: One eighth of an inch.

(3) The award of the honour shall entitle the recipient to add the letters C.G. after his name, but it shall not entitle him to any individual precedence.

(4) The honour may be awarded in time of peace or war.

#### **The Presidential Order of Honour**

5. (1) The Presidential Order of Honour shall be struck in silver gilt and shall be circular in shape with a diameter of one and three eighths inches, the obverse consisting, in relief, of the Coat of Arms of Botswana and the legend "REPUBLIC OF BOTSWANA ORDER OF HONOUR" and the reverse having engraved upon it the name of the recipient and the date of the award.

(2) The honour shall be worn on the left breast, pendent from a silver gilt clasp, affixed to a silk ribbon one and a half inches in width of an azure blue colour.

(3) The award of the honour shall entitle the recipient to add the letters P.H. after his name, but shall not entitle him to individual precedence.

#### **The Presidential Order of Meritorious Service**

6. (1) The Presidential Order of Meritorious Service shall be struck in bronze and shall be in the shape of a five-pointed star with a width of one and three quarter inches between the ends of alternate points and with a circular disc in the middle with a diameter of seven eighths of an inch, the obverse consisting, in relief, of the Coat of Arms of Botswana and the reverse having engraved upon it the words "FOR MERITORIOUS SERVICE" and the name of the recipient and the date of the award.

(2) The honour shall be worn on the left breast, pendent from a bronze clasp, affixed to a silk ribbon one and a half inches in width and consisting of vertical stripes from left to right in the following colours and the following widths —

Black: One quarter of an inch.  
Azure blue: One inch.  
Black: One quarter of an inch.

(3) The award of the honour shall entitle the recipient to add the letters P.M.S. after his name, but shall not entitle him to individual precedence.

#### **The Botswana Police Medal for Meritorious Service**

7. (1) The Botswana Police Medal for Meritorious Service shall be struck in silver and shall be circular in shape, with a diameter of one and three eighths inches, the obverse consisting, in relief, of the Coat of Arms of Botswana and the reverse bearing, in relief, the words "BOTSWANA POLICE FOR MERITORIOUS SERVICE", the name, rank and number of the recipient and the date of the award engraved on the rim thereof.

(2) The medal shall be worn on the left breast, pendent from a silver clasp, affixed to a silk ribbon one and a half inches in width and consisting of vertical stripes from left to right in the following colours and of the following widths —

Old Gold: One quarter of an inch.  
Maroon: Three eighths of an inch.  
Old Gold: One quarter of an inch.  
Maroon: Three eighths of an inch.  
Old Gold: One quarter of an inch.

## **D.270**

(3) The award of the honour shall entitle the recipient to add the letters B.P.M. after his name, but it shall not entitle the recipient to any individual precedence.

### **The Botswana Police Long Service and Good Conduct Medal**

8. (1) The Botswana Police Long Service and Good Conduct Medal shall be struck in silver and shall be circular in shape, with a diameter of one and three eighths of an inch, the obverse consisting, in relief, of the Coat the legend "BOTSWANA POLICE FOR LONG SERVICE AND GOOD CONDUCT" the name, rank and number of the recipient and the date of the award being engraved upon the rim thereof.

(2) The medal shall be worn on the left breast, pendent from a silver clasp, affixed to a silk ribbon one and a half inches in width and consisting of vertical stripes from left to right in the following colours and of the following widths —

Old Gold:	One quarter of an inch.
Maroon:	One inch.
Old Gold:	One quarter of an inch.

(3) The medal may be awarded in such circumstances as may be prescribed under the provisions of the Police Proclamation (Chapter 63).

### **The Botswana Prison Service Medal**

9. (1) The Botswana Prison Service Medal shall be struck in silver and shall be circular in shape, with a diameter of one and three eighths inches, the obverse consisting, in relief, of the Arms of Botswana and the legend "REPUBLIC OF BOTSWANA" and the reverse having, in relief, the legend "BOTSWANA PRISON SERVICE FOR LONG SERVICE AND GOOD CONDUCT", the name rank and number of the recipient and the date of the award being engraved on the rim thereof.

(2) The medal shall be worn on the left breast, pendent from a silver clasp, affixed to a silk ribbon one and a half inches in width, and consisting of vertical stripes from left to right in the following colours and the following widths —

Azure blue:	Three sixteenths of an inch.
White:	Three sixteenths of an inch.
Black:	Three sixteenths of an inch.
Olive green:	Three eights of an inch.
Black:	Three sixteenths of an inch.
White:	Three sixteenths of an inch.
Azure blue:	Three sixteenths of an inch.

### **The Presidential Certificate of Honour**

10. The Presidential Certificate of Honour shall be in such form as the President may approve.

### **Pattern of Honours to be deposited**

11. A pattern of every honour, together with a pattern or reproduction thereof in miniature, half the size of the honour, which may be worn on certain occasions by persons to whom the medal has been awarded or by his widow, shall be deposited and kept in the office of the President of Botswana and in the Government Archives.

**Award of honour to Prisoner of War or Missing Person**

12. If an honour is awarded to any person who is a prisoner of war or who is missing, such award shall not be published until the person concerned has ceased to be a prisoner of war or to be missing.

**Forfeiture or Restoration of an Honour**

13. (1) The President may direct that an honour shall be forfeited where the recipient has been —

- (a) convicted of treason, sedition, mutiny or any similar offence ; or
- (b) sentenced to imprisonment without the option of any fine for a period of not less than six months or has been cashiered, dismissed or discharged from any part of the service of the Republic of Botswana with ignominy.

(2) If the award of an honour has, in terms of subregulation (1) been forfeited, the President may restore such medal if he considered that the recipient concerned is, in every way, worthy of such restoration.

(3) The recipient concerned shall, on the forfeiting of his honour under subregulation (1) surrender such honour to the officer designated under regulation 15.

**Authority for Issue**

14. (1) Honours and the ribbons thereof shall, after award be provided at public expense to each recipient.

(2) In addition such ribbon or a miniature of the honour may be provided to a recipient against payment.

**Registration**

15. An officer in the public service designated thereto by the President shall maintain a register in which particulars are recorded as to the person to whom an honour has been awarded and the nature of the award made.

**Loss or Disposal**

16. (1) No person to whom an honour has been presented shall pledge, sell, barter or dispose of such honour other than by way of testamentary bequest.

(2) If an honour is lost, the person concerned shall submit a written report of the loss to the officer designated under regulation 15, who may authorise the replacement thereof, whether free or at the expense of the recipient.

**Order of Precedence**

17. (1) The order of precedence of honours shall be —

- The *Naledi ya Botswana*
- The Cross of Gallantry
- The Presidential Order of Honour
- The Presidential Order of Meritorious Service ) equal
- The Botswana Police Medal for Meritorious service) precedence
- The Botswana Police Long Service and Good Conduct Medal
- The Botswana Prison Service Medal
- The Presidential Certificate of Honour.

(2) Botswana honours will take precedence over any foreign or Commonwealth honour:



## **D.272**

Provided that where a Commonwealth citizen in the service of the Republic of Botswana is awarded an honour by the country of which he is a citizen, the honour will take precedence over Botswana honours.

(3) Honour insignia from whatever source or country other than campaign medals shall precede campaign medals.

### **Wear with Normal Day Dress and Morning Dress**

18. (1) An honour shall be worn with normal day dress or morning dress suspended from a horizontal metal brooch by its ribbon in a position equidistant from the centre of the breast on the one side and the armpit seam of the jacket on the other and above the left breast jacket pocket at a distance of approximately six to eight inches from the neck-shoulder seam of the jacket:

Provided that ladies may wear an honour on the left side of the dress below the shoulder as high up as is considered convenient.

(2) When two or more honours are worn they should be suspended in order of precedence from a metal brooch (no part of which should be seen) and worn in the manner prescribed in subregulation (1).

(3) When honours cannot on account of their number be suspended from a brooch so as to be seen fully they shall be worn so as to overlap, and not, unless this is unavoidable, suspended from a second brooch.

(4) Where an honour is suspended from a ribbon the length of ribbon should be such as to make a total length suspension of four inches from the top of the horizontal brooch to the bottom of the star, medal or medallion.

(5) Ladies may wear miniatures of an honour upon any occasion upon which honours may be worn.

(6) In the case of evening dress an honour shall be worn in miniature mounted on a bar in brooch form, pinned horizontally on the left lapel of the coat midway in height between the armpit and the peak of the shoulder.

### **Occasions for Wearing of Honours**

19. Honours shall be worn on all State ceremonial occasions to which the recipient is invited on President's day and Botswana day and on other occasions of State ceremony to which the recipient is invited where the invitation states the honours shall be worn.

### **Honours to be kept clean**

20. Honours shall be kept clean.

### **Awards of Foreign Honours to Persons in Botswana**

21. (1) A person in the public service of Botswana who is not a citizen of Botswana may not wear a foreign or Commonwealth honour awarded to him after the date of the coming into operation of these regulations while in such service without the permission of the President.

(2) No Botswana citizen may accept any foreign or Commonwealth honour or accept the insignia thereof without the consent of the President, which permission may be either full permission or restricted permission.

(3) Where restricted permission has been granted under the provisions of subregulation (2) the honour shall be worn only on the occasions specified in the permission.

**D.273**

(4) Application for permission under the provisions of subregulation (2) shall be made by the Government desirous of making the award to the Office of the President, and if the application is granted, notice thereof shall be given by the Minister of State in the Gazette.

J.A. ALLISON,  
Permanent Secretary, Office of the President.

Office of the President,  
GABERONES.  
25th September, 1967.

**D.274**

**Statutory Instrument No. 53 of 1967**

**THE BOTSWANA INDEPENDENCE ORDER 1966**

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS) (NO. 12)  
ORDER 1967**

(Published on 29th September, 1967)

In exercise of the powers vested in him by section 4(3) (a) of the Botswana Independence Order 1966 His Excellency the President hereby makes the following Order —

**Citation**

1. This Order may be cited as the Constitutional Amendment (Adaptation of Existing Laws) (No. 11) Order 1967.

**Amendment of Regulation 1 of Legal Notice No. 41 of 1965**

2. Regulation 1 of the Public Service Commission Regulations, 1965 (hereinafter referred to as the principal regulations) is amended by the insertion after "Commission" of "(Supplementary Provisions)" and by the addition at the end of "and 1967".

**Repeal and Replacement of Regulation 2 of Legal Notice No. 41 of 1965**

3. Regulation 2 of the principal regulations is repealed and replaced as follows —

**"Interpretation and Application**

2. (1) In these regulations, unless the context otherwise requires —

"Chairman" means the Chairman of the Commission and includes a person acting as Chairman under section 110(10) of the Constitution and another member performing the functions of the Chairman under section 110(9) thereof;

"Commission" means the Public Service Commission;

"contract" means a written contract of a fixed maximum duration;

"General Orders" means the General Orders of the Government as in force from time to time;

"member" means a member of the Commission and includes the Chairman and any person acting as a member of the Commission under section 110(10) of the Constitution;

"responsible officer" in relation to any public officer, means, subject to the provisions of paragraph (3), and except as provided in the First Schedule, the Permanent Secretary of the Ministry in or under the control of which he is serving or if the Permanent Secretary to the President has, in terms of paragraph (2), appointed some other person as responsible officer for any class of public officer to which that public officer belongs, such other person;

"Secretary" means the Secretary to the Commission.

"service" means the public service."

(2) The Permanent Secretary to the President may, by direction in writing, appoint the holder of any public office to be the responsible officer for any class of public officer specified in the direction.

(3) Notwithstanding that in terms of this regulation some other person in the responsible officer, the Permanent Secretary to the President may at any time exercise the functions of a responsible officer in any matter falling under these regulations, and if he does so he and not the other person shall be regarded for the purposes of that matter as the responsible officer.

(4) Except as provided in regulation 58, nothing in these regulations shall apply to the appointment, disciplinary control or removal from office of any public officer by any person or body, other than the Commission, acting under lawful authority.

**Repeal of Regulations 3 to 13 of Legal Notice No. 41 of 1965**

4. Regulations 3 — 13 inclusive of the principal regulations are repealed.

**Amendment of Regulation 14 of Legal Notice No. 41 of 1965**

5. Regulation 14 of the principal regulations is amended by the deletion of "Her Majesty's Commissioner" and the substitution of "the President".

**Amendment of Regulation 16 of Legal Notice No. 41 of 1965**

6. Regulation 16 of the principal regulations is amended —

- (a) in the headnote by the deletion of "Persons other than Members" and the substitution of "Public Officers"; and
- (b) by the deletion of "Her Majesty's Commissioner" and the substitution of "the President".

**Repeal of Regulation 18 of Legal Notice No. 41 of 1965**

7. Regulation 18 of the principal regulations is repealed.

**Amendment of Regulation 21 of Legal Notice No. 41 of 1965**

8. Regulation 21 of the principal regulations is amended by the deletion of —

- (a) "functions under or in pursuance of these regulations" and the substitution of "official functions";
- (b) "Her Majesty's Commissioner" and the substitution of "the President";
- (c) "under or in pursuance of these regulations" where it appears for the second time.

**Amendment of Regulation 22 of Legal Notice No. 41 of 1965**

9. Regulation 22 of the principal regulations amended —

- (a) by the deletion of "Her Majesty's Commissioner" and the substitution of "the President";
- (b) by the addition after "year" of "and the President shall lay every such report before the National Assembly".

**Repeal of Regulations 23 — 27 of Legal Notice No. 41 of 1965**

10. Regulations 23 to 27 inclusive of the principal regulations are repealed.

**Amendment of Regulation 28 of Legal Notice No. 41 of 1965**

11. Regulation 28 of the principal regulations is amended by the deletion of all the words after "under" and the substitution of "the Constitution it shall maintain a system

**D.276**

of annual confidential reports on officers and responsible officers shall comply with any directions that the Commission may give in this regard”.

**Amendment of Regulation 29 of Legal Notice No. 41 of 1965**

12. Regulation 29 of the principal regulations is amended —

- (a) in paragraph (1) by the deletion of all the words after “regulation” and the substitution of “31, report the fact to the Secretary in such form as the Commission may determine.”; and
- (b) by the deletion of paragraphs (2), (3) and (4), the numbering of paragraph (1) being accordingly deleted.

**Repeal of Regulation 30 of Legal Notice No. 41 of 1965**

13. Regulation 30 of the principal regulations is repealed.

**Repeal and Replacement of Regulation 31 of Legal Notice No. 41 of 1965**

14. Regulation 31 of the principal regulations is repealed and replaced as follows —

**“Acting Appointments**

31. As soon as a responsible officer knows that the holder of an office in his department which attracts acting allowance or has specific statutory functions is or will become unable to perform the functions of that office for some temporary period, and the responsible officer is of the opinion that the office should be filled in an acting capacity, he shall report the fact to the Secretary in such form as the Commission may determine.”.

**Repeal of Regulations 32 and 33 of Legal Notice No. 41 of 1965**

15. Regulations 32 and 33 of the principal regulations are repealed.

**Amendment of Regulation 34 of Legal Notice No. 41 of 1965**

16. Regulation 34 of the principal regulations is amended —

- (a) in paragraph (2) by the deletion of the last sentence;
- (b) in paragraph (3) by the deletion of the last sentence; and
- (c) in paragraph (4) by the deletion of the last sentence.

**Amendment of Regulation 35 of Legal Notice No. 41 of 1965**

17. Regulation 35 of the principal regulations is amended —

- (a) by the renumbering of the existing regulation as paragraph (1);
- (b) in paragraph (1) by the deletion of “a public officer serving on contract should be dismissed” and the substitution of “the contract of a public officer serving on contract terms of service should be terminated”; and
- (c) by the addition of the following new paragraph —

“(2) If, on consideration of a recommendation made by a responsible officer under paragraph (1), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions.”.

**Amendment of Regulation 36 of Legal Notice No. 41 of 1965**

18. Regulation 36 of the principal regulations is amended —

- (a) in paragraph (1) by the deletion of “and the Commission shall advise what appointment should be made thereto”; and
- (b) in paragraph (2) —
  - (i) by the deletion of “and the Commission shall advise thereon”; and
  - (ii) by the deletion of “before so advising” and the substitution of “before taking further action in the matter”.

**Amendment of Regulation 37 of Legal Notice No. 41 of 1965**

19. Regulation 37 of the principal regulations is amended —

- (a) by the deletion of the headnote and the substitution of “Abolition of One of a Number of Offices”; and
- (b) by the addition after “terminated” of “and the Commission shall determine which it shall be”.

**Repeal and Replacement of Regulations 38 and 39 of Legal Notice No. 41 of 1965**

20. Regulations 38 and 39 of the principal regulations are repealed and replaced by the following regulations —

**“Retirement of Officer at Normal Retiring Age**

38. Not later than 6 months before a public officer who holds a pensionable office attains the age referred to in section 9(a) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the public service on attaining that age give reasons in writing in support thereof.

**Retirement at or After Prescribed Age**

38A. If a responsible officer is of the opinion that a public officer in his department who holds a pensionable office should be called upon to retire from the public service on the grounds that he has attained the age referred to in section 9(b) of the Pensions (Consolidation) Law, 1965 (No. 17 of 1965), he shall —

- (a) inform the officer that he intends to recommend that he be compulsorily retired from the public service;
- (b) ask the officer concerned whether he wishes to make, within a period of time appointed by the responsible officer, any representations why he should not be so retired; and
- (c) after the expiration of such period, forward his recommendation to the Secretary together with a copy of any representations made by the officer concerned and his comments thereon.

**Compulsory Retirement on Medical Grounds**

38B. If a responsible officer has reason to believe that a public officer in his department is incapable by reason of any infirmity of mind or body likely to be permanent of discharging the duties of his office he shall report the matter to the Commission and inform the officer in writing that he has done so. The Commission may call upon the officer

## **D.278**

in question to submit to examination by a medical officer or officers nominated by it for the purpose of ascertaining the officer's condition.

### **Compulsory Retirement on Marriage**

38C. If a female officer who holds a pensionable office marries, the responsible officer shall report the fact to the Commission and if he considers that the officer should not be required to retire from the Public Service by reason of such marriage give reasons in writing in support thereof.

### **Compulsory Retirement in Other Circumstances**

39. (1) If the Permanent Secretary to the President considers that a public officer who holds a pensionable office should be required to retire from the service —

- (a) for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy be effected; or
- (b) on the grounds that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, termination of the officer's service is desirable in the public interest;

he shall —

- (i) obtain from the responsible officers of every Ministry of department in which the officer has served reports as to his work and conduct;
- (ii) allow the officer an opportunity of considering such reports and of showing cause why he should not be retired from the public service.

(2) If the Permanent Secretary to the President, after considering the officer's statement and having regard to all the circumstances of the case, is of the opinion that the officer should be retired from the public service on the said grounds, he shall forward to the Secretary the reports obtained in pursuance of paragraph (i) of paragraph (1) and the statement of the officer, together with his own recommendation.

(3) If, upon consideration of the report made by the Permanent Secretary to the President under paragraph (2), the Commission is of the opinion that the facts alleged are such as to warrant the institution of proceedings under Part V, the Commission may direct the responsible officer to take action accordingly, and the responsible officer shall give effect to such directions".

### **Repeal of Regulations 42 – 44 of Legal Notice No. 41 of 1965**

21. Regulations 42 to 44 inclusive of the principal regulations are repealed.

### **Amendment of Regulation 45 of Legal Notice No. 41 of 1965**

22. Regulation 45 of the principal regulations is amended —

- (a) by the deletion of the headnote and the substitution of "Salary of Interdicted Officer";
- (b) in paragraph (1) by —
  - (i) the deletion of "Her Majesty's Commissioner has interdicted any officer" and the substitution of "any officer has in terms of General Orders been interdicted";
  - (ii) the deletion of "advise on" and the substitution of "determine"; and

- (c) in paragraph (2) by the deletion of "advise" and the substitution of "determine".

**Amendment of Regulation 47 of Legal Notice No. 41 of 1965**

23. Regulation 47 of the principal regulations is amended in paragraph (1) by the deletion of "a charge of misconduct should be preferred" and the substitution of "there is a *prima facie* case of misconduct against the officer which it does not properly fall to him to deal with under any powers conferred upon him by lawful authority".

**Amendment of Regulation 49 of Legal Notice No. 41 of 1965**

24. Regulation 49 of the principal regulations is amended —

- (a) by the deletion of the words after "by" where it appears for the first time and the substitution of "a committee of officers it may, subject to the concurrence of the Permanent Secretary to the President, appoint one or more officers as a committee to conduct the enquiry. Every such committee shall for the purposes of that enquiry have the same powers as are conferred upon the Commission by regulations 16 and 17"; and
- (b) by the addition of the following new paragraph, the existing regulation becoming thereby paragraph (1) —
 

"(2) If during the course of the enquiry grounds for the framing of additional charges are disclosed, the committee shall so inform the responsible officer who shall follow the same procedure as was adopted in framing the original charges."

**Amendment of Regulation 50 of Legal Notice No. 41 of 1965**

25. Regulation 50 of the principal regulations is amended by the insertion after "held" of "under regulation 49".

**Amendment of Regulation 51 of Legal Notice No. 41 of 1965**

26. Regulation 51 of the principal regulations is amended by the deletion of "the Commission or."

**Amendment of Regulation 52 of Legal Notice No. 41 of 1965**

27. Regulation 52 of the principal regulations is amended —

- (a) by the deletion of "Commission or" wherever it appears; and
- (b) by the deletion of "the Territory" and the substitution of "Botswana".

**Amendment of Regulation 53 of Legal Notice No. 41 of 1965**

28. Regulation 53 of the principal regulations is amended by the deletion of "and the Commission shall consider the same".

**Repeal of Regulations 54 – 56 of Legal Notice No. 41 of 1965**

29. Regulations 54 to 56 inclusive of the principal regulations are repealed.

**Amendment of Regulation 57 of Legal Notice No. 41 of 1965**

30. Regulation 57 of the principal regulations is amended in paragraph (2) by the deletion of the proviso and the addition of "and the responsible officer shall give effect to such direction".



**D.280**

**Amendment of Regulation 58 of Legal Notice No. 41 of 1965**

31. Regulation 58 of the principal regulations is amended —

- (a) in paragraph (1) by the deletion of "as a result of disciplinary proceedings under this Part" and the substitution of "by the Commission or by any person or persons duly authorised to act under section 111(3) of the Constitution in exercise of the power of disciplinary control over that officer referred to in section 111(1) of the Constitution"; and
- (b) in paragraph (2) —
  - (i) by the deletion of "under this Part"; and
  - (ii) by the deletion of "so recommend" and the substitution of "act accordingly".

**Amendment of Regulation 59 of Legal Notice No. 41 of 1965**

32. Regulation 59 of the principal regulations is amended —

- (a) in paragraph (2) by the deletion of all the words after "shall" where it appears for the second time and the substitution of "determine whether or not such increment shall be stopped or withheld. The Commission may also determine that any increment which has been stopped in terms of regulation 58 or this regulation shall be later granted or that any increment which has been so withheld shall be later restored."; and
- (b) by the addition of the following new paragraph —

"(5) In this regulation, "normal incremental date" in relation to any officer means his normal incremental date as determined in accordance with General Orders or any contract under which he may be serving."

**Repeal of Regulation 61 of Legal Notice No. 41 of 1965**

33. Regulation 61 of the principal regulations is repealed.

**Repeal and Replacement of Regulation 62 of Legal Notice No. 41 of 1965**

34. Regulation 62 of the principal regulations is repealed and replaced as follows —

**"Conversion of Temporary or Contract Terms to Pensionable Terms**

62. The Commission shall determine whether permanent and pensionable terms of service in a public office shall be awarded to any officer eligible for such terms who is already serving in that office under contract or upon temporary engagement."

**Repeal of Regulations 63 – 65 of Legal Notice No. 41 of 1965**

35. Regulations 63 to 65 inclusive of the principal regulations are repealed.

**Repeal and Replacement of First Schedule to Legal Notice No. 41 of 1965**

36. The First Schedule to the principal regulations is repealed and replaced as follows—

**"FIRST SCHEDULE**

(regulation 2(1))

**RESPONSIBLE OFFICERS – SPECIAL CASES**

1	2
In respect of any public officer holding an office —	The responsible officer shall be —
(a) mentioned in the Administration of Justice head of the estimates not being an officer to which section 105 of the Constitution applies	Registrar of the High Court
(b) on the staff of the National Assembly	Clerk of the National Assembly
(c) on the staff of the Public Service Commission	Secretary, Public Service Commission
(d) on the staff of the Attorney-General	Attorney-General
(e) on the staff of the Director of Audit	Director of Audit
(f) in the Botswana Police or on the staff of any officer of the Botswana Police	Commissioner of Police
(g) in the Botswana Prison Service or on the staff of the Director of Prisons	Director of Prisons
(h) on the staff of the Establishment Secretary	Establishment Secretary
(i) referred to in the second column of this Schedule or to which section 114 of the Constitution applies	Permanent Secretary to the President"

**Repeal of Second and Third Schedules to Legal Notice No. 41 of 1965**

37. The Second and Third Schedules to the principal regulations are repealed.

**Amendment of Fourth Schedule to Legal Notice No. 41 of 1965**

38. The Fourth Schedule of the principal regulations is amended in Part A (which relates to the Form of Charge) by the deletion of "(General) Regulations, 1965" and the substitution of "(Supplementary Provisions) Regulations, 1965 and 1967".

Office of the President,  
GABERONES.  
27th September, 1967.

T.J. MOLEFHE,  
Private Secretary to the President.



**Statutory Instrument No. 54 of 1967**

THE CITIZENSHIP OF BOTSWANA (SUPPLEMENTARY PROVISIONS) LAW, 1966

**THE CITIZENSHIP OF BOTSWANA (AMENDMENT NO. 3) REGULATIONS, 1967**

(Published on 13th October, 1967)

In the exercise of the powers vested in him by section 18 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966 (Law 39 of 1966) the Minister of Home Affairs hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Citizenship of Botswana (Amendment No. 3) regulations, 1967.

**Amendment of Regulation 2 of Legal Notice No. 82 of 1966**

2. Regulation 2 of the Citizenship of Botswana Regulations, 1966 (hereinafter referred to as the principal regulations) is amended by the insertion of the following definition —

““authorised tribal officer” means —

- (a) any person who is a Chief or tribal authority for the purposes of the Chieftainship Law, 1965;
- (b) any Chief's representative or sub-chief for the purposes of the Chieftainship Law, 1965, who is declared by the Minister by notice in the Gazette, to be an authorised tribal officer for the purposes of this definition;”.

**Amendment of Regulation 9 of Legal Notice No. 82 of 1966**

3. Regulation 9 of the principal regulations is amended by the deletion of “or G3” and the substitution of “, G3 or G4”.

**Amendment of Regulation 15 of Legal Notice No. 82 of 1966**

4. Regulation 15 of the principal regulations is amended by the cancellation of sub-regulation (2).

**Amendment of Regulations 25, 26, 27 and 28 of Legal Notice No. 82 of 1966**

5. The principal regulations are amended in sections 25, 26, 27 and 28 by the insertion after “medical practitioner” wherever the expression occurs of “, authorised tribal officer”.

**Amendment of the First Schedule of Legal Notice No. 82 of 1966**

6. The First Schedule of the principal regulations is amended —

- (a) in Form C by the deletion in subparagraph (i) of paragraph 1 of Part I of “is/ becomes” and the substitution of “became”;
- (b) in Form D by the deletion in the Note to Part II of “temporary” and the substitution of “special”;
- (c) by the insertion after “Medical Practitioner” wherever the expression occurs of “, Authorised Tribal Officers”;
- (d) by the addition at the end of forms G1, G3 and J of the following additional paragraph —

“All the provisions of section 29 of the Constitution have been complied with.

D.284

- ..... Date ..... Citizenship Officer.”;
- (e) in form G3 by the deletion in that portion headed “PARTICULARS RELATING TO APPLICANT” of so much as relates to the names and nationalities of parents;
- (f) by the insertion after form G3 of the form set out in the Schedule;
- (g) in form H —
- (i) by the deletion in the Note to Part II of “temporary” and the substitution of “special”;
- (ii) by the addition at the end thereof under the heading “For Official Use Only” of “A  
“A Certificate of Naturalisation is
- (a) Granted
- (b) Refused.

- ..... Date ..... Minister of Home Affairs”;
- (h) in form J —
- (i) by the deletion in the first paragraph of “nationalization” and the substitution of “naturalization”;
- (ii) by the deletion in the third paragraph of “by” and the substitution of “my”;
- (iii) by the deletion in that portion headed “PARTICULARS RELATING TO APPLICANT” of “Nationality” and the substitution of “Previous nationality”;
- (iv) by the deletion of so much of the form as follows “Mother...”.

#### SCHEDULE

“Form G4

#### CERTIFICATE OF REGISTRATION

(under section 4 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966)

WHEREAS.....has applied on behalf of his/her minor child/ward.....to the Citizenship Officer that the minor child be registered as a citizen of Botswana under section 4 of the Citizenship of Botswana (Supplementary Provisions) Law, 1966 and has satisfied the Minister that the necessary conditions for such registration are fulfilled;

NOW THEREFORE, the Minister in pursuance of the powers conferred upon him by the said Law, causes the said person.....to be registered as a citizen of Botswana and shall be a citizen of Botswana from the date of this certificate;

IN WITNESS WHEREOF I have hereto subscribed my name, this.....day of..... 19.....

Citizenship Office,  
GABERONES.

.....  
Citizenship Officer

**PARTICULARS RELATING TO THE MINOR CHILD**

Full name.....

Address.....

Place and date of birth.....

Previous nationality.....

Marital status .....

Name of wife (if applicable).....

Names and nationalities of parents:

    Father.....

    Mother.....

The provisions of section 29 of the Constitution must be complied with no sooner than  
.....19..., and no later than.....19.....

All the provisions of section 29 of the Constitution have been complied with.

.....  
Date

.....  
Citizenship Officer."

A.H. DONALD,  
Permanent Secretary.

Ministry of Home Affairs,  
GABERONES.  
September, 1967.



**Statutory Instrument No. 55 of 1967**

**THE CONSTITUTION OF BOTSWANA**

**THE PUBLIC SERVICE COMMISSION RULES, 1967**

The annexed Rules made by the Public Service Commission in terms of section 110 (13) of the Constitution for the regulation of the procedure are published for public information —

**PART I**

**PRELIMINARY**

**Citation**

1. These rules may be cited as the Public Service Commission Rules, 1967.

**Interpretation**

2. In these rules unless the context otherwise requires —

“Chairman” “responsible officer” and “member” shall have the meanings assigned thereto in regulation 2 (1) of the Regulations;

“Commission” means the Public Service Commission;

“Regulations” means the Public Service Commission (Supplementary Provisions) Regulations, 1965 and 1967;

“Secretary” means the Secretary to the Commission;

“transfer” means the appointment of a public officer to an office of emolument other than that to which he was last substantively appointed, in circumstances which do not involve promotion; but does not include the posting of an officer from one place of employment to another in circumstances which do involve his assumption of some other office of emolument.

**Departure from Rules**

3. The Commission will conform to these rules in the exercise of its functions save that, subject to the provisions of the Constitution and of any other law, it may depart therefrom where it is of the opinion that a procedure other than that prescribed in these rules is more appropriate or convenient in the circumstances of the case.

**PART II**

**GENERAL RULES OF PROCEDURE**

**Functions of Secretary**

4. The Secretary shall conduct the correspondence and keep the records of the Commission, and perform such other administrative duties as the Commission may from time to time direct.

**Chairman and Quorum**

5. (1) Every meeting of the Commission shall be presided over by the Chairman.

(2) A majority of all the members of the Commission which includes the Chairman shall constitute a quorum at any meeting of the Commission.

**Record of Meetings and Decisions**

6. (1) The Secretary shall keep a record of the members present and of the business transacted at every meeting of the Commission.



## **D.288**

(2) Any member who is present when a decision is made shall be entitled to dissent therefrom and to have his dissent and his reasons therefor set out in writing in such record.

### **Circulation of Papers**

7. (1) Decisions may be made by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing:

Provided that the Chairman may direct that the papers shall not be circulated in accordance with the provisions of subsection (1) to any member who through interest, illness, absence from Botswana or otherwise is, in the opinion of the Chairman, incapacitated from voting on such papers.

(2) Any decision under the provisions of subsection (1) shall be by the unanimous agreement of all members to whom the relevant papers are circulated as aforesaid (being a majority of all the members of the Commission) and in any case in which the views of members are not unanimous the matter shall be placed on the agenda for the next meeting.

### **Irregular Representations**

8. In carrying out its duties under the provisions of the Constitution, or of any other law, the Commission may reject any representations made to it otherwise than in accordance with the Regulations or these Rules.

### **Commission to Inform Responsible Officer of Contrary Views**

9. Whenever the Commission proposes to act in a manner which in the opinion of the Commission is substantially at variance with the recommendation made to the Commission by the responsible officer, the Commission will so inform the responsible officer.

### **Hearing Responsible Officer or Head of Department**

10. The Commission at the request of the responsible officer will —

- (a) hear the responsible officer personally in connection with any recommendation made by him to the Commission;
- (b) hear the head of department personally in connection with any recommendation made to the Commission which affects his department.

### **Forms**

11. (1) The Commission shall determine the forms to be used by it in the discharge of its functions.

(2) The forms contained in the Schedule shall be used for the purposes of the regulations and these rules.

## **PART III**

### **APPOINTMENT, PROMOTION, AND TRANSFER OF OFFICERS**

#### **Consultation and Selection Boards**

12. In exercising its functions in connection with the appointment, promotion or transfer of an officer in the public service the Commission may —

- (a) consult with any other person; and
- (b) seek the advice of a selection board constituted by the Commission which may appoint to it members of the Commission or persons who are not members of the Commission.

### **Procedure to be Followed in Dealing with Appointments**

13. (1) The Commission shall determine the procedure it will follow in dealing with applications for appointment to the public service including the proceedings of any selection board appointed by the Commission.

(2) The Commission may in its discretion interview any applicant for appointment to the public service in the presence of a responsible officer or other officer or otherwise and may, additionally or alternatively, require any selection board appointed under the provisions of subrule (1) so to interview a candidate.

### **False Statement for Purposes of Obtaining Appointment**

14. If the Commission receives a report alleging that a public officer made a statement which was to his knowledge untrue for the purposes of obtaining his appointment, and, if after giving the officer an opportunity to make representations, the Commission is satisfied as to the truth of such allegation, it may forthwith summarily terminate such appointment.

### **Matters to be Considered by Commission**

15. (1) In exercising its powers in connection with the appointment, promotion or transfer of officers in the public service the Commission shall —

- (a) give effect to any relevant schemes of service or other statements by the President defining the qualifications or disqualifications for any public office;
- (b) have regard to the maintenance of a high standard of efficiency in the public service;
- (c) in the case of officers already serving in the public service, take into account qualifications, experience and merit.

(2) Where the Commission is unable to fill a post by the transfer or promotion of a suitable citizen of Botswana already in the public service, it will call for applications for the post by advertisement, unless for special reasons in any case it determines this not to be necessary.

(3) In exercising its powers in connection with acting appointments, the Commission will be guided by the foregoing principles but will also take administrative convenience into consideration.

(4) The Commission will not make an appointment by way of transfer unless —

- (a) in the case of an officer serving on permanent and pensionable terms it has ascertained the officer's views as to such transfer; or
- (b) in the case of an officer serving on contract terms the officer has consented to the transfer.

## **PART IV**

### **DISCIPLINARY PROCEEDINGS**

#### **Disciplinary Action while Criminal Proceedings Pending**

16. If criminal proceedings are instituted against an officer in any Court, the Commission will not consider disciplinary proceedings upon any grounds involved in the criminal charge, without the consent of the officer, pending the result of the criminal proceedings.

## **D.290**

### **Disciplinary Action Following Criminal Conviction**

17. (1) Where an officer has been convicted of a criminal offence the Commission may, in its discretion, in any disciplinary proceedings, accept without further proof that the officer committed the offence of which he was convicted upon production before it of a certified copy of the record of such proceedings.

(2) Where an officer has been convicted of a criminal offence for which he has been sentenced to imprisonment without the option of a fine the Commission shall obtain a certified copy of the record of the proceedings and after perusal thereof may dismiss the officer, without requiring disciplinary proceedings to be instituted against him:

Provided that no final decision shall be taken pending the determination of any appeal from the conviction.

### **Disciplinary Action After Acquittal on Criminal Charge**

18. (1) No officer acquitted of a criminal charge will be dismissed or otherwise punished by the Commission on any charge upon which he has been acquitted unless in acquitting the officer the court had no occasion to inquire into the truth or falsity of any evidence tendered in the case and relevant to the truth or falsity of the allegations against the officer.

(2) Nothing in this rule shall prevent the officer being dismissed or otherwise punished on any charges arising out of his conduct in the matter, unless the charges raise substantially the same issues as those on which he has been acquitted.

### **Action by the Commission on Receiving Responsible Officer's Report**

19. The Commission shall, on receiving the report of the responsible officer made under regulation 48 of the Regulations —

- (a) call for such further statements or other information relative to the charge preferred against the officer as it may think fit; or
- (b) determine to take no further action in the matter and, in such event, shall inform the officer concerned and the responsible officer accordingly; or
- (c) refer the matter to a committee for inquiry in accordance with the provisions of regulations 49 to 53 of the Regulations; or
- (d) itself conduct an inquiry in accordance with the provisions of rule 20; or
- (e) proceed under the provisions of rule 21.

### **Application of the Regulations in the Case of an Inquiry by the Commission**

20. If the Commission on considering the responsible officers report made under regulation 21 of the Regulations is of the opinion that an inquiry should be conducted by it the provisions of regulations 49 to 53 inclusive of the Regulations shall apply in relation to disciplinary proceedings before the Commission as they do in relation to disciplinary proceedings before a Committee.

### **Proceedings Without Inquiry**

21. (1) If the Commission, on considering the responsible officer's report made under regulation 48 of the Regulations, is of the opinion that the officer has failed to exculpate himself of the charges preferred, it may decide not to institute an inquiry if it considers that the misconduct alleged is not serious enough to warrant an enquiry or that no useful purpose would be served by instituting an inquiry.

(2) If the Commission decides not to institute an inquiry but to proceed to deal with the misconduct alleged it shall cause the officer to be so informed and shall, in addition, supply the officer with the substance of any information prejudicial to him and relevant to the charge which has not previously been made available to him, and that he shall have the opportunity to submit in writing to the Secretary through his responsible officer any representations he may wish to make to the Commission further to any written statement he may have made in reply to the charges preferred against him.

(3) The Commission shall determine the matter in the light of the responsible officer's original report, any further information it may have obtained in the matter and such further representations as may have been made by the officer against whom a charge has been preferred under subrule (2).

#### **Findings of Inquiry**

22. If an inquiry is held in pursuance of paragraph (c) or (d) of rule 19 the Commission shall at the conclusion of the inquiry or on receiving the Commission's report as the case may be inform the responsible officer and the officer against whom the charge was preferred of the findings thereof.

### **PART V**

#### **MISCELLANEOUS**

##### **Policy of Commission in Relation to Normal Retirement**

23. The Commission will require an officer to retire from the public service of the Government of Botswana —

- (a) at attaining the age of fifty-five years;
- (b) in the case of a female officer, on marriage;

in accordance with the provisions of section 9 of the Pensions (Consolidation) Law, 1965 (Law No. 17 of 1965) unless, in the opinion of the Commission, it is not in the interests of the public service of the Government of Botswana that the Commission should require the officer so to retire.

##### **Copies of Certain Documents to be Supplied in Proceedings under section 112 of the Constitution**

24. Where the President directs that an appeal shall be heard by a tribunal under the provisions of section 112 of the Constitution the Commission shall supply to the appellant and the tribunal —

- (a) the reasons for its decision in the matter;
- (b) in the event of any inquiry under the provisions of rule 20 or under the provisions of regulations 49 to 53 of the Regulations having taken place a record of the proceedings at such inquiry;
- (c) a copy of every document considered by the Commission in making its decision in the matter which has not previously been supplied to the appellant.

##### **Recusation**

25. A member interested in any matter dealt with by the Commission shall so inform the Chairman and not take part in any proceedings of the Commission relative to such matter unless the Commission otherwise directs.

D.292

Form P.S.C. 1

### VACANCY REPORT

(Note: A separate copy of the form to be used for each vacancy reported. When a promotion is recommended to fill the vacancy which if approved will involve a consequential vacancy, a report of the consequential vacancy may be made simultaneously).

To the Secretary to the Public Service Commission

#### 1. REPORT OF VACANCY

I report the following vacancy exists/will exist:

*Title of Post Within Estimates*

*Grade of Salary  
Scale or Fixed  
Salary*

Expenditure Head, Part and

Subhead.....

Item No. ....

Reason why vacancy has occurred:

Date of occurrence of Vacancy:

.....  
.....  
.....

.....

I confirm that the published Estimates show financial provision to enable the vacancy to be filled from the above date:

#### 2. The official qualifications for this post are stated as follows.....

.....  
.....(ref:.....)

#### 3. I attach a list of the most senior officers in this Ministry/Department who are citizens of Botswana and in the grade(s) below the vacancy.

#### 4. (a) I recommend that the vacancy be filled by the promotion of the following citizen public officer;

*Name*

*Present Rank and Date  
of Appointment Thereto*

*Existing  
Salary*

.....  
.....

(If he is not the senior officer, detailed reasons should be given, on an attached sheet if necessary, for the recommendation and for the supersession of other citizen officers);  
or

#### (b) I do not know of any citizen public officer qualified and suitable for the vacancy and recommend the probationary appointment of.....who is a citizen and whose application P.S.C. Form 2 is attached; or

- (c) I do not know of any citizen qualified or suitable for the vacancy, and, in the absence of a citizen, recommend that the vacancy be filled by the promotion of the following non-citizen public officer:

<i>Name</i>	<i>Present Rank and Date of Appointment Thereto</i>	<i>Existing Basic Salary</i>
.....	.....	.....
.....	.....	.....

(If he is not the senior public officer in rank detailed reasons should be given, on an attached sheet if necessary, for the recommendation and for the supersession of other officers); or

- (d) I do not know of any citizen qualified or suitable for the vacancy and, in the absence of a citizen, recommend that the vacancy be filled by the renewal of the contract/temporary appointment of the following non-citizen public officer:

.....  
 whose present appointment is.....which began on.....  
 and expires on.....;or

- (e) I do not know of any person qualified and suitable for the vacancy and recommend recruitment/locally/in the following countries.....

(Note: Please cross out the four of the alternative recommendations 3(a), (b), (c), (d) and (e) which are not being made).

5. In the event of the Commission wishing to advertise this vacancy I recommend that the advertisement be published in terms of the attached draft.

Departmental Reference

.....

Signed.....  
 (Permanent Secretary or other  
 Responsible Officer)

Appointment.....

Date: .....

D.294

Form P.S.C. 2

REPUBLIC OF BOTSWANA

**APPLICATION FOR APPOINTMENT TO THE PUBLIC SERVICE**

(Form to be completed by the applicant in his own handwriting).

**1. APPOINTMENT DESIRED.** (Application for more than one post may be made. Posts to be listed in order of preference).

Post

Department

.....	.....
.....	.....
.....	.....
.....	.....

**2. PERSONAL DETAILS.**

NAME in full, Mr., Mrs., Miss .....  
(BLOCK CAPITALS)

ADDRESS .....  
(BLOCK CAPITALS)

MADEN NAME (Married women and widows) .....  
(BLOCK CAPITALS)

Date of Birth	Age last birthday	Place of Birth	Nationality*	Single or Married
---------------	-------------------	----------------	--------------	-------------------

\*(Batswana applicants should state Tribe and Chief and District in Botswana in which local tax is paid).

Number of Children: . . . Sons: Aged respectively . . . . . years.

. . . Daughters: Aged respectively. . . . . years.

Name	Nationality at Birth	Place of Birth	Occupation
------	-------------------------	----------------	------------

\*Father .....

\*Mother .....

\*Wife/Husband .....

\*Maiden name must be given in case of Mother and Wife. If dead the questions above should nevertheless be answered.

Address of Father (if living) .....

Have you previously been an applicant Yes or No. If answer is "Yes", give particulars.  
for employment with the Botswana Government? .....

Knowledge of languages other than English. ....

D.295

### 3. EDUCATIONAL RECORD

#### (a) Schools

Dates		Name and Place of School	Examinations passed, and any distinctions gained in School work	Name of Head or Housemaster
From	To			

#### (b) University (or other similar institution)

Dates		University, etc.	Subjects read	Name of College Tutor or Professor who knew you best
From	To			
Degree, Diploma or Professional Qualifications		Date Obtained		Result or class obtained in each part of course

### 4. SERVICE IN ARMED FORCES

Dates		Service and Branch thereof	Rank on Discharge	Decorations, Mentions in Dispatches etc.	Reason for Discharge
From	To				



**D.296****5. CIVIL EMPLOYMENT RECORD.** (From completion of education to present time)

Dates		Name and Business of Employer	Address	Position Held	Reason for leaving
From	To				

Salary in present employment, or in last employment if not at present employed. £/R. ....

If the whole of your career, including education,  
is not accounted for by your answers to sections  
3, 4 and 5, give further details to account for the  
gaps.

or No.

any serious illnesses ?

**6. HEALTH**

(a) Do you suffer from any      Yes or No.      If answer is "Yes", give particulars.  
bodily injury or defect ?

(b) Have you suffered from  
any serious illnesses ?

**7. CHARACTER**

Have you ever been convicted  
of a criminal offence ?      Yes or No.

If the answer is "Yes", particulars of all offences must be given.

Date	Nature of offence	Description and place of Court	Sentence or Order of Court

**PERSONAL REFERENCES AND TESTIMONIALS.**

This application should be accompanied by references as to character by two persons of standing who have known you well for a considerable time. They should be requested to indicate on the reference their address and occupation. In addition, it is important, so far as practicable, that every stage of the candidates career, including education, should be covered by testimonials from School or University Authorities and previous employers.

**8. WHEN AVAILABLE**

How soon would you be available to take up an appointment if selected?

**9. PHOTOGRAPH.**

You are requested to paste hereon an unmounted photograph of yourself. Any photograph of recent date which provides a good likeness is sufficient.

Signature of Applicant . . . . . Date . . . . .

D.298

Form P.S.C. 3

**RECOMMENDATION FOR ACTING PAID APPOINTMENT**

To the Secretary to the Public Service Commission

1. I report the post of.....  
title of salary scale, or fixed salary.....to be temporarily vacant  
with effect from.....by reason of the.....  
of the substantive holder Mr. ....
2. I recommend that Mr.....present appointment.....  
salary scale or fixed salary.....be appointed to act with effect  
from.....until.....
3. Mr.....is/is not a citizen of Botswana and is/is not the senior  
officer eligible to act. (Unless both parts of this statement are in the affirmative  
explain below why you propose the supersession of citizens and/or senior officers).

Departmental Reference

.....

Signed .....  
(Permanent Secretary or other  
Responsible Officer)

Appointment.....

Date.....

J.C. BARRETT,  
Secretary.

Public Service Commission,  
GABERONES.  
6th October, 1967.

**Statutory Instrument No. 56 of 1967**

**THE FINANCE AND AUDIT LAW, 1965**

**THE FINANCE AND AUDIT (SPECIAL FUNDS) ORDER, 1967**

In the exercise of the powers vested in him by section 10 (7) of the Finance and Audit Law, 1965 (No. 15 of 1965), and with the approval of the National Assembly, His Excellency the President hereby makes the following order –

**Title**

1. This order may be cited as the Finance and Audit (Special Funds) Order, 1967.

**Establishment of Special Funds**

2. The following funds are hereby established as additional Special Funds for the purposes of section 10 of the Finance and Audit Law, 1965 –

- (a) Oxfam Development Fund ;
- (b) Botswana African Fund ;
- (c) Local Councils' Employees' Provident Fund ;
- (d) Development Loan Fund ;
- (e) Botswana Gifts and Donations Fund.

**T.J. MOLEFHE,**

Private Secretary to the President.

Office of the President,  
GABERONES.  
6th October, 1967.

**D.300**

**Statutory Instrument No. 57 of 1967**

**THE PROTECTED PLACES AND AREAS LAW, 1965**

**THE PROTECTED AREAS ORDER, 1967**

In exercise of the powers vested in him by sections 2 and 5 of the Protected Places and Areas Law, 1965 (No. 18 of 1965) His Excellency the President hereby declares and orders as follows –

**Citation**

1. This notice may be cited as the Protected Areas Order, 1967.

**Declaration of Protected Areas**

2. The areas listed in the first column of the Schedule are declared to be protected areas for the purposes of the Law.

**Authorised Officer**

3. The person listed in the second column of the Schedule is declared to be an authorised officer in respect of the area opposite thereto in the first column of the Schedule.

**SCHEDULE**

<i>First Column</i>	<i>Second Column</i>
The area within the security fence surrounding the Power Station, Gaborones	Chief Engineer & Manager, Gaborones Water and Electricity Unit
The area within the security fence surrounding Radio Botswana	Chief Engineer, Radio Botswana
The area within the security fence surrounding the Transmitting Station, Sebele	Chief Engineer, Radio Botswana
The area within the wall surrounding Radio Botswana Broadcasting House	Broadcasting Officer, Radio Botswana
The area within the outer security fence surrounding the Airfield, Gaborones	Director of Civil Aviation
The area within the outer security fence surrounding the Airfield, Francistown	Compound Manager, Mine Labour Organisations (W.N.L.A.) Ltd.
The area within the security fence surrounding the President's Office	Permanent Secretary, Office of the President, Gaborones
The area within the fence surrounding the Botswana Meat Commission, Lobatsi	Security Officer, Botswana Meat Commission.

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
6th October, 1967.

**Statutory Instrument No. 58 of 1967**

**THE AGRICULTURAL CHARGES ACT, 1967**

**THE AGRICULTURAL CHARGES (FEES) REGULATIONS, 1967**

In exercise of the powers vested in him by section 17 of the Agricultural Charges Act, 1967 (Act No. 2 of 1967) the Minister of Finance hereby makes the following regulations –

**Citation**

1. These regulations may be cited as the Agricultural Charges (Fees) Regulations, 1967.

**Fees for Registration of Certificates of Indebtedness**

2. The fees of office payable for the registration of a certificate of indebtedness under the provisions of section 5 of the Agricultural Charges Act, 1967 shall be 10c for every R10 or part thereof secured by the certificate under the provisions of the Act, with a maximum fee of R2.

A.J. BEEBY,  
Financial Secretary.

Ministry of Finance,  
GABERONES.  
20th October, 1967.



## Statutory Instrument No. 59 of 1967

## POST OFFICE PROCLAMATION, 1961

**LEASED TELEPRINTER SERVICE AND PRIVATE TELEGRAPH LINE  
CHARGES, 1967**

It is hereby notified for general information that the Minister of Works and Communications has in terms of section 4 of the Post Office Proclamation, 1961, (No. 43 of 1961) approved of the leased teleprinter service and telegraph line charges set out in the Schedule which have been prescribed by the Director of Posts and Telegraphs.

2. Legal Notice No. 10 of 1966 is, hereby, cancelled.

## SCHEDULE

## 1. LEASED TELEPRINTER SERVICE

- |  |      |
|--|------|
| (a) Annual rental payable by subscriber for service between two or more subscribers, for each teleprinter, including a sound proof cover | R200 |
| (b) Annual rental payable by subscriber per quarter mile or circuit or portion thereof —   |      |
| For the first 200 miles  | R 2  |
| In excess of 200 miles   | R 1  |
| (c) Annual rental payable by subscriber for —  |      |
| (i) a teleprinter without reperforator attachment and remote control unit  | R200 |
| (ii) a teleprinter with reperforator attachment and remote control unit  | R280 |
| (iii) a teleprinter with perforator or reperforator and automatic transmitter and remote control unit                                    | R340 |
| (iv) each keyboard perforator  | R100 |
| (v) each automatic transmitter   | R 60 |
| (vi) each reperforator not attached to a teleprinter   | R100 |
| (vii) each printing reperforator   | R150 |
| (viii) joint user — each additional subscriber beyond the first  | R 10 |
| (d) Installation charges —   |      |
| (i) for each teleprinter with or without attachments, and with remote control unit   | R 20 |
| (ii) or each teleprinter with or without attachments, and without remote control unit  | R 10 |
| (iii) for each keyboard perforator   | R 10 |



**D.304**

- |  |      |
|--|------|
| (iv) for each automatic transmitter  | R 10 |
| (v) for each reperforator not attached to teleprinter  | R 10 |
| (vi) for each printing reperforator  | R 10 |
| (e) Minimum monthly call charge for subscriber situated 40 or more radial miles from the exchange to which connected | R 10 |

**2. PRIVATE TELEGRAPH LINE CHARGES**

The charges made in respect of subscribers connected by private telegraph line to exchanges are as follows —

Service	Charges
Ordinary calls —	
(i) Local	2½c for each 3 minutes or part thereof
(ii) Other calls	for each 3 minutes — 6c for 30 miles 9c for 50 miles 15c for 150 miles 24c for 300 miles 30c for over 300 miles Extra time after 3 minutes shall be charged for pro rata per minute.

M.S.O. HAWKINS,  
Permanent Secretary,

Ministry of Works and Communications,  
GABERONES.  
12th October, 1967

**Statutory Instrument No. 60 of 1967**

THE POST OFFICE PROCLAMATION, 1961

**THE TELEPHONE, RADIO, POSTAL AND FRANKING (AMENDMENT)  
REGULATIONS, 1967**

In exercise of the powers vested in him under section 4 of the Post Office Proclamation, 1961 (Proclamation No. 43 of 1961) the Director of Posts and Telegraphs hereby makes the following regulations —

**Citation**

1. These Regulations may be cited as the Telephone, Radio, Postal and Franking (Amendment) Regulations, 1967.

**Amendment of Regulation 7 of High Commissioner's Notice 23 of 1963**

2. Regulation 7 of the Telephone, Radio, Postal and Franking Regulations, 1963 is amended in paragraph (b) by the deletion of "R0.75" and the substitution of "R3.00".

M.S.O. HAWKINS,  
Permanent Secretary.

Ministry of Works and Communications,  
GABERONES.  
30th September, 1967.



**Statutory Instrument No. 61 of 1967**

**THE MARRIAGE PROCLAMATION (CHAPTER 144)**

**THE MARRIAGE (FORMS) REGULATIONS, 1967**

In exercise of the powers vested in him by section 25 of the Marriage Proclamation (Chapter 144) the Minister of Home Affairs hereby makes the following regulations –

**Citation**

1. These regulations may be cited as the Marriage (Forms) Regulations, 1967.

**Interpretation**

2. In these regulations –

“form” means form prescribed in the Schedule;

“principal law” means the Marriage Proclamation (Cap. 144).

**Prescribed Forms**

3. (1) A certificate (not being a certificate issued under section 56 of the Administration of Estates Proclamation (Cap. 83)) for the purposes of section 6 (1) (a) of the principal law shall be in Form 1.

(2) A certificate for the purposes of section 6 (1) (b) of the principal law shall be in Form 2.

**Persons Before whom Declaration may be made**

4. A declaration for the purposes of section 15 (2) of the principal law shall be in Form 3 and shall be made before a Commissioner of Oaths or Magistrate and shall be signed by the person making it whose signature shall be attested by two witnesses:

Provided that any declarant who is unable to write may put his mark thereto.

D.308

Form 1

**REPUBLIC OF BOTSWANA**

**THE MARRIAGE PROCLAMATION**

(Under Section 6 (1) (a))

I certify that I am satisfied that adequate provision has been made to safeguard the inheritances or other properties which have devolved upon the persons named below being the children, whether minor or otherwise, of.....  
..... of .....  
born of a marriage or marriages by customary law.

*NAME*

*SEX*

*APPARENT AGE*

.....  
.....  
.....  
.....

GIVEN at ..... on the ..... day of

..... 19.....

.....  
(Senior District Officer/District Officer/Magistrate)

D.309

Form 2

**REPUBLIC OF BOTSWANA**

**THE MARRIAGE PROCLAMATION**

(Under Section 6 (1) (b))

I certify that I am satisfied that adequate provision has been made to safeguard the maintenance of the minor children named below of.....  
of.....born of a marriage or marriages by customary law.

*NAME*

*SEX*

*APPARENT AGE*

.....  
.....  
.....  
.....

GIVEN at..... on the .....day of  
.....19.....

.....  
(Senior District Officer/District Officer/Magistrate)

D.310

REPUBLIC OF BOTSWANA

Form 3

THE MARRIAGE PROCLAMATION

(Under Section 15 (2))

1. I, .....  
of .....  
do solemnly and sincerely declare that I have never been married according to any  
customary law.

Date .....

.....  
*Signature of Declarant.*

2. I, .....  
of .....  
do solemnly and sincerely declare that I have been married ..... (here say  
"one", "twice", or as the case may be) in accordance with the customary law, but  
every such marriage has been dissolved by death or annulled in accordance with the  
law whether customary or otherwise applicable in the circumstances of my case, and  
that I have the following children and no others by the marriage or marriages declared  
above –

NAME	SEX	PRESENT AGE
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Date .....

.....  
*Signature of Declarant.*

Declared before me at ..... on the ..... day of  
..... 19.....

In the presence of –

1. .... }  
2. .... } Witnesses

NOTE: The declarant must complete *either* (1) or (2) above and delete the other.

The declaration must be made in the presence of a Commissioner of Oaths or a Magistrate and of two witnesses.

Ministry of Home Affairs,  
GABERONES.  
27th October, 1967.

A. DONALD,  
Permanent Secretary.

**Statutory Instrument No. 62 of 1967.**

THE LIVESTOCK AND MEAT INDUSTRIES LAW, 1962

**THE GRADING AND MARKING OF CARCASSES (AMENDMENT)  
REGULATIONS, 1967**

(Published on 10th November, 1967)

In exercise of the powers vested in him by section 3 of the Livestock and Meat Industries Law, 1962 (No. 32 of 1962) His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Grading and Marking of Carcasses (Amendment) Regulations, 1967.

**Amendment of Regulation 5 of L.N. No. 57 of 1966**

2. The Marking of Carcasses Regulations, 1966 are amended in subregulation (2) of regulation 5 —

(a) in paragraph (b) —

(i) in subparagraph (i) by the insertion immediately prior to the proviso and after the expression "permanent incisors;" of "or the carcasses shall be of fair finish, of very good conformation, of a good quality and derived from steers or heifers with less than six permanent incisors or from bulls whose carcasses show no marked secondary masculine character in the forequarter and also have no permanent incisors:";

(ii) in subparagraph (ii) by the insertion immediately prior to the proviso and after the expression "permanent incisors;" of "or the carcasses shall be of a fairly good finish, of a very good conformation, of a good quality and derived from steers or heifers having more than five but less than eight permanent incisors:";

(b) by the deletion of paragraph (c) and the substitution of —

"(c) Grade 1: The carcasses shall be of a fair finish, of a good conformation, of a fairly good quality and derived from steers, heifers or cows having less than eight permanent incisors or from bulls with no permanent incisors; or the carcasses shall be of fairly good finish, of a fairly good conformation, of a fairly good quality and derived from steers, heifers or cows of an age not exceeding five years or from bulls with no permanent incisors; or the carcasses shall be of a good finish, of a good conformation, of a fairly good quality and derived from steers, heifers or cows of an age exceeding five years;".

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
31st October, 1967.



D.312

**Statutory Instrument No. 63 of 1967**

**THE HIRE PURCHASE PROCLAMATION, 1961**

**EXEMPTION**

In the exercise of the powers vested in him by section 2(3) of the Hire Purchase Proclamation, 1961 (No. 25 of 1961) His Excellency the President hereby gives notice that the provisions of the Hire Purchase Proclamation shall not apply to any agreement in respect of the sale of a moveable where the National Development Bank is the seller.

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
31st October, 1967.

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**Statutory Instrument No. 64 of 1967.**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (BAMANGWATO TRIBAL  
TERRITORY) HUNTING REGULATIONS, 1967**

(Published on 10th November, 1967)

In the exercise of the powers vested in him by section 4(1), as read with section 93, of the Fauna Conservation Proclamation, 1961, and after consultation with the Tribal Authority of the Bamangwato Tribal Territory and the appropriate District Council, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Citation and Application**

1. (1) These regulations may be cited as the Fauna Conservation (Bamangwato Tribal Territory) Hunting Regulations, 1967.

(2) These regulations shall apply to members of the Bamangwato Tribe when hunting on the tribal territory.

**Interpretation**

2. In these regulations, unless the context otherwise requires —

“conserved animals” means the animals prescribed in Part I of the First Schedule ;

“licence” means a current and valid licence issued under regulation 8 ;

“licence fee” means the fee prescribed in the Third Schedule ;

“member” means member of the Tribe ;

“protected game” means the animals prescribed in the first column of Part II of the First Schedule ;

"Tribal Authority" means the tribal authority of the Tribe and includes any person performing the functions of tribal authority ;

"tribal game" means the animals prescribed in the Second Schedule ;

"tribal territory" means the territory of the Tribe ;

"Tribe" means the Bamangwato Tribe.

#### **Restriction on Hunting Conserved Animals**

3. (1) No member shall capture or hunt a conserved animal.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

#### **Restriction on Hunting Protected Game**

4. (1) Subject to the provisions of regulation 7 no member shall hunt protected game without being in possession of a licence permitting him to do so in the area specified in the licence.

(2) The total number of animals, being protected game, which may be killed in any year by licence holders shall not exceed the number prescribed in respect of an animal in the second column of Part II of the First Schedule and no licence shall be issued which, taking into consideration licences previously issued, authorizes the killing of any protected game in excess of this number.

(3) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

#### **Tribal Game**

5. (1) Subject to the provisions of regulation 7, no member shall hunt tribal game without being in possession of a licence permitting him to do so in the area specified in the licence.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

#### **Licence Not Required for Hunting Certain Animals**

6. A licence shall not be required by a member to hunt animals other than those specified in the First and Second Schedules.

#### **Close Season**

7. (1) Notwithstanding the provisions of regulations 4 and 5, no member shall hunt protected game or tribal game between the 1st November in any year and the 31st day of March in the year next following.

(2) Any person who contravenes the provision of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

#### **Appointment of Licensing Officers**

8. (1) The Tribal Authority in Council shall appoint licensing officers for the purpose of issuing licences under these regulations.

(2) A licensing officer shall, subject to the provisions of these regulations and any direction which may be given by the Tribal Authority for the better conservation of

#### **D.314**

game and the equitable apportionment of rights to hunt between members, issue a licence to a member on receipt by him of the licence fee :

Provided that no licence authorizing the hunting of protected game shall be issued save by or on the authority of the Tribal Authority.

(3) For the purposes of subregulation (1) "Tribal Authority in Council" means the Tribal Authority acting after consultation with the Central District Council.

#### **Licences**

9 (1) In addition to any particulars which may be required under the provisions of regulation 4(2) a licence shall specify the period of validity of the licence and the name of the person to whom it is issued and the area within which hunting may take place:

Provided that no licence authorizing the hunting of protected game shall be valid for a period in excess of 30 days.

(2) A licence shall not authorize the hunting of protected game unless such authority is expressly conferred by the licence and, if so conferred, it shall authorize the hunting of the number and species of animals specified in the licence only.

(3) A licence authorizing the hunting of tribal game shall authorize the hunting of the number and species of animals specified in the licence only.

(4) The fees prescribed in the Second Schedule shall be paid for a licence.

(5) All licence fees shall be paid into the revenue of the Central District Council.

(6) No licence shall be transferable.

#### **Destruction of Animals in Self Defence**

10. (1) Notwithstanding anything contained in these regulations, it shall be lawful for any member to kill or injure any wild animal in defence of himself or other person if immediately and absolutely necessary.

(2) The burden of proving that any animal has been killed or injured in accordance with the provisions of this section shall lie upon the person who killed or injured such animal.

#### **Destruction of Animals Causing Damage to Livestock, etc.**

11. (1) Notwithstanding anything contained in these regulations, it shall be lawful for the occupier of land or any member authorized by him to destroy on such land any wild animal causing damage to any livestock, crops, water installation or fence.

(2) The Chief may authorize the killing of, and it shall be lawful to kill or injure in accordance with such authority, any wild animal, which in the opinion of the Tribal Authority has caused and is likely again to cause damage to any livestock, crops, water installation or fence.

#### **Use and Possession of Poisoned Bait, etc. Prohibited**

12. (1) No member shall, except under and in accordance with the written permission of the Tribal Authority, use for the purpose of hunting or capturing any animal, any poisoned bait, metal trap, set gun or wire snare.

Provided that nothing in this regulation shall render unlawful the setting of a metal trap or wire snare for the protection of livestock in the immediate vicinity of any enclosure in which livestock are kept.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in regulation 13.

### Penalties

13. Any person convicted of an offence under these regulations shall be liable —

- (a) in the case of a first conviction to a fine of R50 or, in default of payment to imprisonment for a period not exceeding one month, or such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (b) in the case of a second conviction to a fine of R100 or, in default of payment, to imprisonment for a period not exceeding three months, or such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (c) in the case of a third conviction to a fine not exceeding R200 or, in default of payment, to imprisonment for a period not exceeding six months, or such imprisonment without the option of a fine, or both such fine and such imprisonment.

## FIRST SCHEDULE

### PART I

(Regulation 3)

#### Conserved Animals

Cheetah	(Lengau, Letlhotse)
Giraffe	(Thutiwa)
Hippopotamus	(Kubu)
Klipspringer	(Mokabayane)

### PART II

(Regulation 4)

#### Protected Game

First Column		Second Column
Lion	(Tau)	Nil
Leopard	(Nkwe)	Nil
Zebra	(Pitse Yanaga)	50
Springbok	(Tshepe)	Nil
(East of the Central Fence)		
Kudu	(Tholo)	10
Elephant	(Tlou)	10
Ostrich	(Ntshe)	Nil
Eland	(Phofu)	Nil
Sable Antelope	(Kwalata Entsho)	Nil
Roan Antelope	(Kwalata Etshetlha)	Nil
Tsessebe	(Tsesebe)	Nil
Reedbuck	(Motsweima)	Nil
Gemsbok	(Kukama)	Nil

**D.316**

**SECOND SCHEDULE**

(Regulation 5)

**Tribal Game**

**THIRD SCHEDULE**

(Regulation 9)

**Licence Fees**

In the case of protected game	Free
In the case of tribal game	Free

P.W. REARDON,  
Permanent Secretary,

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
3rd November, 1967.

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**Statutory Instrument No. 65 of 1967**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (BATAWANA TRIBAL TERRITORY) HUNTING  
REGULATIONS, 1967**

(Published on 10th November, 1967).

In the exercise of the powers vested in him by section 4(1), as read with section 93, of the Fauna Conservation Proclamation, 1961 and after consultation with the Chief of the Batawana tribal territory and the appropriate District Council, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations –

**Citation, Application and Commencement**

1. (1) These regulations may be cited as the Fauna Conservation (Batawana Tribal Territory Hunting Regulations, 1967, and shall come into effect on the 1st January, 1968.

(2) These regulations shall apply to members of the Batawana Tribe when hunting on the tribal territory.

**Interpretation**

2. In these regulations, unless the context otherwise requires –

“Chief” means the Chief of the Tribe and includes any person performing the functions of Chief;

## **D.317**

"conserved animals" means the animals prescribed in Part I of the First Schedule;

"licence" means a current and valid licence issued under regulation 8 ;

"licence fee" means the fee prescribed in the Third Schedule ;

"member" means member of the Tribe ;

"protected game" means the animals prescribed in the first column of Part II of the First Schedule;

"tribal game" means the animals prescribed in the first column of the Second Schedule;

"tribal territory" means the territory of the Tribe ;

"Tribe" means the Batawana Tribe.

### **Restriction on Hunting Conserved Animals**

3. (1) No member shall capture or hunt a conserved animal.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

### **Restriction on Hunting Protected Game**

4. (1) Subject to the provisions of regulations 7, 10 and 11, no member shall hunt protected game without being in possession of a licence permitting him to do so.

(2) The total number of animals, being protected game, which may be killed in any year by all licence holders shall not exceed the number prescribed in respect of an animal in the second column of Part II of the First Schedule and no licence shall be issued which authorises the killing of any protected game in excess of the number prescribed in the third column thereof.

(3) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

### **Tribal Game**

5. (1) Subject to the provisions of regulation 7, no member shall hunt tribal game without being in possession of a licence permitting him to do so and no licence shall be issued which authorises the killing of any tribal game in excess of the number prescribed in the second column of the Second Schedule.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

### **Licence Not Required for Hunting Certain Animals**

6. A licence shall not be required by a member to hunt animals other than those specified in the First and Second Schedules.

### **Close Season**

7. (1) Notwithstanding the provisions of regulations 4 and 5, no member shall hunt protected game or tribal game between the 16th November in any year and the 14th March in the year next following.

## **D.318**

(2) Any person who contravenes the provision of subregulation (1) shall be guilty of an offence and liable on conviction to the penalties prescribed in regulation 13.

### **Appointment of Licensing Officers**

8. (1) The Chief in Council shall appoint licensing officers for the purpose of issuing licences under these regulations.

(2) A licensing officer shall, subject to the provisions of these regulations and any direction which may be given by the Chief for the better conservation of game and the equitable apportionment of rights to hunt between members, issue a licence to a member on receipt by him of the licence fee:

Provided that no licence authorising the hunting of protected game shall be issued save by or on the authority of the Chief.

(3) For the purposes of subregulation (1) "Chief in Council" means the Chief acting after consultation with the North West District Council.

### **Licences**

9. (1) A licence shall specify the period of validity of the licence, the name of the person to whom it is issued and the number and species of animals which may be killed by the holder thereof:

Provided that no licence authorizing the hunting of protected game shall be valid for a period in excess of 90 days.

(2) A licence shall not authorise the hunting of protected game unless such authority is expressly conferred by the licence and, if so conferred, it shall authorise the hunting of the number and species of animals specified in the licence only.

(3) A licence authorising the hunting of tribal game shall authorise the hunting of the number and species of animals specified in the licence only, and shall be in respect of either animals listed in Part I of the Second Schedule or animals listed in Part II thereof.

(4) The fees prescribed in the Third Schedule shall be paid for a licence.

(5) All licence fees shall be paid into the revenue of the North West District Council.

(6) No licence shall be transferable.

### **Destruction of Animals in Self Defence**

10. (1) Notwithstanding anything contained in these regulations, it shall be lawful for any member to kill or injure any wild animal in defence of himself or other person if immediately and absolutely necessary.

(2) The burden of proving that any animal has been killed or injured in accordance with the provisions of this section shall lie upon the person who killed or injured such animal.

**Destruction of Animals Causing Damage to Livestock, etc.**

11. (1) Notwithstanding anything contained in these regulations, it shall be lawful for the occupier of land or any member authorised by him to destroy on such land any wild animal causing damage to any livestock, crops, water installation or fence.

(2) The Chief may authorise the killing of, and it shall be lawful to kill or injure in accordance with such authority, any wild animal, which in the opinion of the Chief has caused and is likely again to cause, damage to any livestock, crops, water installation or fence.

**Use and Possession of Poisoned Bait, Etc. Prohibited**

12. (1) No member shall, except under and in accordance with the written permission of the Chief, use for the purpose of hunting or capturing any animal, any poisoned bait, metal trap, set gun or wire snare:

Provided that nothing in this regulation shall render unlawful the setting of a metal trap or wire snare for the protection of livestock in the immediate vicinity of any enclosure in which livestock are kept.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in regulation 13.

**Penalties**

13. Any person convicted of an offence under these regulations shall be liable –

- (a) in the case of a first conviction to a fine of R50 or, in default of payment to imprisonment for a period not exceeding one month, or such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (b) in the case of a second conviction to a fine of R100 or, in default of payment, to imprisonment for a period not exceeding three months, or such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (c) in the case of a third conviction to a fine not exceeding R200 or, in default of payment, to imprisonment for a period not exceeding six months, or such imprisonment without the option of a fine, or both such fine and such imprisonment.

**FIRST SCHEDULE****PART I**

(Regulation 3)

**Conserved Animals**

Leopard	(Nkwe)
Zebra	(Pitse yanaga)
Cheetah	(Lengau, Letlhotse)
Giraffe	(Thutlwa)
Hippopotamus	(Kubu)
Rhinoceros	(Tshukudu)



**D.320**

**PART II**

(Regulation 4)

*Protected Game*

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
Eland (Phofu)	75	1
Elephant (Tlou)	75	1
Roan Antelope (Kwalata etshetlha)	75	1
Sable Antelope (Kwalata entsho)	75	1

**SECOND SCHEDULE**

(Regulation 5)

*Tribal Game*

**PART I**

<i>First Column</i>	<i>Second Column</i>
Buffalo (Nare)	3
Bushbuck (Serolobotlhoko)	1
Gemsbok (Kukama)	1
Hartebeest (Kgama)	1
Kudu (Tholo)	2
Lechwe (Letswee)	3
Lion (Tau)	1
Sitatunga (Naakong)	1
Springbok (Tshephe)	2
Tsessebe (Kabole)	3

**PART II**

Duiker (Phuti)	2
Impala (Phala)	10
Ostrich (Ntshhe)	4
Reedbuck (Sebogata)	2
Warthog (Kolobe)	10
Wildebeest (Kgokong)	10

**THIRD SCHEDULE**

(Regulation 9)

<i>Licence Fees</i>	<i>Fee</i>
(a) In the case of Protected Game	R20
(b) In the case of Tribal Game listed in Part I of the Second Schedule	R 4
(c) In the case of other Tribal Game	Free

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
3rd November, 1967.

P.W. REARDON,  
Permanent Secretary.

**Statutory Instrument No. 66 of 1967****THE CONSTITUTION OF BOTSWANA****PUBLIC SERVICE COMMISSION (DELEGATION OF POWERS) DIRECTIONS, 1967**

It is hereby notified for public information that, in exercise of the powers vested in him by section 111 (3) of the Constitution of Botswana His Excellency the President has approved the delegation contained in the Schedule hereto entitled "Public Service Commission (Delegation of Powers) Directions, 1967".

**SCHEDULE**

In exercise of the powers vested in it by section 111 (3) of the Constitution, the Public Service Commission, with the consent of the President, hereby makes the following directions —

**Citation**

1. These directions may be cited as the Public Service Commission (Delegation of Powers) Directions, 1967.

**Interpretation**

2. In these directions —

"offices of the "E" scale or in the "Z" grade" means all offices of emolument shown as offices on the "E" scale or in the "Z" grade in the Estimates for 1967/68 or which may hereafter be shown in Estimates as offices on the "E" scale or in the "Z" grade;

"responsible officer" means responsible officer as defined in section 2 as read with the First Schedule of the Public Service Commission (Supplementary Provisions) Regulations, 1965 and 1967.

**Delegation**

3. The Public Service Commission hereby delegates —

- (a) to the Director of Prisons power to appoint persons to offices in the Prison Service up to and including the rank of principal Warder, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office;
- (b) to the Secretary to the Cabinet power to appoint persons to the offices of Sergeant and Security Guard in the Office of the President, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office;
- (c) to the responsible officer power to appoint persons to offices on the "E" scale and in the "Z" grade, to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office.

**Powers of Commission on Review**

4. The powers hereby delegated are subject to the condition that, in the event of a review by the Commission in accordance with the provisions of section 112 (1) of the Constitution, the Commission shall have power to set aside, correct or vary any decision in the case made by the person to whom powers have been delegated under these directions.

**D.322**

**Withdrawal and Lapse of Previous Directions**

5. (1) The delegations contained in the Public Service Commission (Delegation of Powers) (Security Officers) Directions, 1967, as published in Government Notice No. 34 of 1967 and the Public Service Commission (Delegation of Powers) (Prison Officers) Directions, 1967, as published in Government Notice No. 49 of 1967 are withdrawn and the Government Notices in which such directions were published are, accordingly, cancelled.

(2) For the removal of doubt it is declared that the Control of Public Service (Delegation of Powers) Regulations, 1965, published in Legal Notice No. 42 of 1965 and the Control of Public Service (Delegation of Powers) (Amendment) Regulations, 1966, published in Legal Notice No. 25 of 1966 have lapsed.

J.C. BARRETT,  
Secretary.

Office of the Public Service Commission,  
GABERONES.  
6th November, 1967.

**Statutory Instrument No. 67 of 1967**

THE POST OFFICE PROCLAMATION, 1961

**THE TELEPHONE, RADIO, POSTAL AND FRANKING (AMENDMENT NO. 2) REGULATIONS, 1967**

In the exercise of the powers vested in him under section 4 of the Post Office Proclamation, 1961, (Proclamation No. 43 of 1961), and with the approval of the Minister of Works and Communications, the Director of Posts and Telegraphs hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Telephone, Radio, Postal and Franking (Amendment No. 2) Regulations, 1967.

**Amendment of Regulation 5 of High Commissioner's Notice No. 23 of 1963**

2. Regulation 5 of the Telephone, Radio, Postal and Franking Regulations, 1963, as amended by the Telephone, Radio, Postal and Franking (Amendment) (No. 4) Regulations, 1965, (L.N. No. 69 of 1965) is amended by the deletion of paragraph (i) and the substitution of —

“(i) residential and business (automatic) —

(a) exclusive line..... R18.00

(b) two-party line..... R12.00”.

M.S.O. HAWKINS,  
Permanent Secretary.

Ministry of Works and Communications,  
GABERONES.  
1st November, 1967.

D.324

Statutory Instrument No. 68 of 1967

THE PROTECTED PLACES AND AREAS LAW, 1965

THE PROTECTED PLACES (FRANCISTOWN) ORDER, 1965

THE PROTECTED AREAS (FRANCISTOWN) ORDER, 1967

**AUTHORISED OFFICERS**

In exercise of the powers vested in him by section 2 of the Protected Places and Areas Law, 1965 (No. 18 of 1965) His Excellency the President declares all persons of the class specified in the Schedule to be authorised officers in respect of —

- (a) the Central African Relay Station at Francistown, being the area declared to be a protected place under the Protected Places (Francistown) Order, 1965, (L.N. 76 of 1965);
  - (b) the area declared to be a protected area under the Protected Areas (Francistown) Order, 1967 (S.I. 15 of 1967).
2. Legal Notice No. 77 of 1965 is revoked.

**SCHEDULE**

Security Officers employed by the United Kingdom Government and Security Guards of Diplomatic Service of the United Kingdom.

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
14th November, 1967.

**Statutory Instrument No. 69 of 1967**

**THE COMPANIES PROCLAMATION, 1959**

**THE COMPANIES (FORMS) REGULATIONS, 1967**

In the exercise of the powers vested in him by section 312 of the Companies Proclamation, 1959 (proclamation 71 of 1959) His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Companies (Forms) Regulations, 1967.

**Interpretation**

2. In these regulations —

“form” means form prescribed in the Schedule;

“Proclamation” means the Companies Proclamation, 1959.

**Prescribed Forms**

3. (1) The list required to be lodged with Registrar of Companies in accordance with the provisions of section 142 (4) of the Proclamation shall be in form 1.

(2) A return for the purposes of section 158 (2) of the Proclamation shall be in form 2.

**D.326**

## SCHEDULE

Form 1

THE COMPANIES PROCLAMATION, 1959  
(section 142 (4))

List of the persons who have consented to be Directors of the ....., Limited  
to be delivered to the Registrar pursuant to section 142 (4) of the Companies Proclamation  
71 of 1959).

To: The Registrar of Companies.

I/We, the undersigned, hereby give you notice, pursuant to section 142 (4) of the Companies Proclamation, 1959, that the following persons have consented to be directors of the abovementioned Company.

[illegible]

Signature, Address and Description of .....  
Applicant for Registration .....  
.....  
.....

This                      day of                      19

Presented for filling by .....

THE COMPANIES PROCLAMATION, 1959  
(section 158 (2))

Name of Company ..... Limited

COPY (a) OF THE COMPANY'S REGISTER OR DIRECTORS AND SECRETARIES

Presented for filling by .....

1. Date of Appointment (b)	2. Present Forename or Names & Surname	3. Any former Forenames (h) or Surname	4. Nationality	5. Usual Resident Address	6. Parti- culars of other Director- ships (d)	7. Business Occupation	8. Nature of Change (c)	9. Date of Change (f)	10. Date Company Notified of Change (g)
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DIRECTORS (a)

SECRETARIES (c)



**D.328**

**Notes:**

- (a) A complete list of the existing Directors should always be given.
- (b) This date should always be shown whether or not it is in respect of an old or a new appointment.
- (c) In the case of the Secretary being a corporate body, its name and the situation of its registered office must be shown.
- (d) In case of an individual, if he is a director of any other company, the name and registered office of every such company must be entered.

This applies only in the case of new appointees.

- (e) State "Resigned", "Retired", "Died", or as the case may be. In the case of a new appointment since the last list was filed, it must be stated here in whose place or whether additional.
- (f) Give the date of the occurrence referred to in the previous column. Both columns 9 and 10 must be completed in the event of a change.
- (g) This is regarded as the effective date of the entry in the register.
- (h) In the case of any change of name the place where and the date when such change took place should be stated.

.....  
(Signed) Director/Secretary

This

day of

19

J.A. ALLISON,  
Permanent Secretary,

Office of the President,  
GABERONES.  
30th November, 1967.

**Statutory Instrument No. 70 of 1967**

**THE AGRICULTURAL CHARGES ACT, 1967**

**THE AGRICULTURAL CHARGES (FEES) (AMENDMENT) REGULATIONS, 1967**

In exercise of the powers vested in him by section 17 of the Agricultural Charges Act (Act No. 2 of 1967) the Minister of Finance hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Agricultural Charges (Fees) (Amendment) Regulations, 1967.

**Addition of New Regulation to S.I. No. 58 of 1967**

2. The Agricultural Charges (Fees) Regulations, 1967, are amended by the addition of the following regulation —

**'Cancellation of Certificate of Indebtedness**

4. No fee of office shall be payable upon the cancellation of a certificate of indebtedness in accordance with the provisions of section 6 of the Act."

S.W. ASSAEL,  
for Financial Secretary.

Ministry of Finance,  
GABERONES.  
6th December, 1967.

**D.330**

**Statutory Instrument No. 71 of 1967**

**THE FINANCE AND AUDIT LAW, 1965**

**THE NATIONAL RELIEF FUND REGULATIONS, 1967**

(Published on 15th December, 1967)

In exercise of the powers vested in him by section 10 (4) of the Finance and Audit Law, 1965 (No. 15 of 1965) His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the National Relief Fund Regulations, 1967.

**Interpretation**

2. In these regulations —

“Board” means the Board of Management of the Fund established under regulation 3;

“Fund” means the National Relief Fund.

**Establishment and Membership of Board of Management**

3. (1) There is hereby established a Board of Management of the Fund.

(2) Members of the Board, including the Chairman, shall be appointed by the Minister and hold office for a maximum period of two financial years, but shall be eligible for reappointment at the expiry of such period of appointment:

Provided that the first members appointed by the Minister shall hold office until the 31st March, 1969: and

Provided further that should any member relinquish his appointment for any reason whatsoever the Minister may appoint another person to be a member for the unexpired period of such retiring member's appointment.

- (3) There shall be 5 members of the Board including the Chairman.

**Duties of the Board**

4. (1) The Board shall be responsible for the control and management of the Fund in accordance with the provisions of these regulations.

(2) The Board shall publish in the *Gazette* as soon as practicable after the end of each financial year a fully audited statement showing the working of the Fund and all the claims thereon and containing all transactions connected with the working of the Fund, in respect of that financial year.

**Meetings of Board**

5. (1) The Board shall meet at least once in every financial year, and may hold such other meetings as the Chairman may determine.

(2) Any vacancy in the membership of the Board shall not affect the power of the remaining members in the control and management of the Fund.

D.331

(3) Meetings of the Board shall be held on such days and at such time and place as the Chairman may determine.

(4) All decisions regarding the Fund shall be made at meetings of the Board and shall be determined by the vote of the majority of members present and voting.

(5) At all meetings of the Board, the Chairman shall have a casting vote in addition to his original vote.

(6) In the absence of the Chairman at any meeting, the other members shall appoint one of their member to act as Chairman.

(7) A quorum at a meeting shall be not less than 3 members.

#### **Expenses of Management and Administration**

6. The reasonable expenses of the management and administration of the Fund shall be paid out of the Fund.

#### **Investment of Money in the Fund**

7. Subject to the provisions of section 10 (5) of the Law the Board may recommend to the Minister in what way the moneys of the Fund should be invested.

#### **Disposal of Moneys of the Fund**

8. The Board may dispose of the moneys in the Fund for purposes of —

- (a) relieving, or directly or indirectly assisting in the relief of, famine, wherever or whenever it may occur ;
- (b) preventing famine wherever or whenever it threatens to occur ;
- (c) counteracting or helping to counteract the effects of any other disaster.

#### **Appeals for Donations**

9. The Board may appeal for, canvas and receive donations.

J.A. ALLISON,  
Permanent Secretary,

Office of the President,  
GABERONES.  
5th December, 1967.

**D.332**

**Statutory Instrument No. 72 of 1967.**

**THE TOWNSHIPS PROCLAMATION (CHAPTER 120)**

**THE TOWN COUNCIL (AMENDMENT NO. 2) REGULATIONS, 1967**

In the exercise of the powers vested in him by section 2 of the Townships Proclamation (Chapter 120), His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Town Council (Amendment No. 2) Regulations, 1967

**Amendment of Regulation 31 of Legal Notice No. 37 of 1966**

2. Regulation 31 of the Town Council Regulations, 1966 (hereinafter referred to as the principal regulations) is amended in subsection (1) by the deletion of "First" and the substitution of "Second".

**Amendment of Regulation 104 of Legal Notice No. 37 of 1966**

3. Regulation 104 of the principal regulations is amended by the deletion of "Second" and the substitution of "Third".

**Amendment of First Schedule to Legal Notice No. 37 of 1966**

4. The First Schedule to the principal regulations is amended —

- (a) in the heading, by the deletion of "(regulations 29 and 31)" and the substitution of "(regulation 29)";
- (b) by the deletion of item 5 and the substitution of —

**"General Administration**

- 5. (1) To provide for the protection of common property.
  - (2) To protect common lands and pastures.
  - (3) To establish and maintain common markets.
  - (4) To establish and maintain recreation grounds and other public places and to provide for the planting and protection of plants and shrubs.
  - (5) To establish and maintain stockyards, pens and dipping tanks.
  - (6) To collect and dispose of stray livestock and other domestic animals.
  - (7) To establish and maintain cemeteries and burial grounds.
  - (8) To provide services or assist in the provision of services giving relief from or attempting to avert natural calamity.
  - (9) To assist associations existing for the promotion of recreation and sport, arts and crafts or for the welfare of children or young persons or for the relief and support of blind, infirm, indigent, aged or destitute persons."
- (c) by the addition of the following items —

**"Electricity Supplies**

9. To provide public electricity supplies in accordance with any law relating to the supply of electricity.

**Housing**

10. With the approval of the Minister, on land vested in the council to build, maintain and let out housing."

**Insertion of New Schedule to Legal Notice No. 37 of 1966**

5. The principal regulations are amended by the addition of the following Schedule after the First Schedule, the existing Second Schedule becoming, thereby, the Third Schedule —

**"SECOND SCHEDULE"**  
(regulation 31)

**POWER TO MAKE BYE-LAWS**

1. For the better carrying into effect of any function conferred on the council in terms of regulation 29 as read with the First Schedule.
2. To control common lands and pastures.
3. To control common markets.
4. To control recreation grounds, parks and other public places.
5. To control stockyards, pens and dipping tanks.
6. To control cemeteries and burial grounds.
7. To control or prevent advertising, dangerous trades, nuisances, noises and street collections.
8. To regulate, control and license laundries.
9. To regulate the keeping of domestic or wild animals or bees, poultry or pigeons; to fix a minimum size of the size of the stand, lot, premises or areas upon which such animals may be kept and to prohibit the use of any stable, cowshed, pen or sty which in the opinion of the council is unfit, undesirable or objectionable by reason of its locality, condition or manner of use.
10. To regulate, control and license the brewing, distribution and sale of traditional beer.
11. To license bicycles.

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
30th November, 1967.

**D.334**

**Statutory Instrument No. 73 of 1967.**

**THE TOWNSHIPS PROCLAMATION (CHAPTER 120)**

**THE TOWN COUNCIL (AMENDMENT NO. 3) REGULATIONS, 1967**

In exercise of the powers vested in him by section 2 of the Townships Proclamation (Chapter 120), His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Town Council (Amendment No. 3) Regulations, 1967.

**Amendment of Section 52 of Legal Notice No. 37 of 1966**

2. The Town Council Regulations, 1966, are amended in section 52 by the deletion of "three" and the substitution of "five".

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
5th December, 1967.

## Statutory Instrument No. 74 of 1967

## THE FAUNA CONSERVATION PROCLAMATION, 1961

## THE FAUNA CONSERVATION (NAMES OF ANIMALS) REGULATIONS, 1967

(Published on 22nd December, 1967)

In the exercise of the powers vested in him by section 93 of the Fauna Conservation Proclamation, 1961, (No. 22 of 1961), the Minister of Commerce, Industry and Water Affairs, hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Fauna Conservation (Names of Animals) Regulations, 1967.

**English and Tswana Equivalents of Scientific Names**

2. For the purposes of the Fauna Conservation Proclamation, 1961, and of any statutory instrument thereunder the English name prescribed in the second column of the Schedule and the Tswana name or names set opposite thereto in the third column of the Schedule shall be deemed to be the English or Tswana name or names as the case may be of the animal whose Latin or scientific name appears set opposite thereto in the first column of the Schedule.

## SCHEDULE

<i>First Column (Latin or Scientific Name)</i>	<i>Second Column (English Name)</i>	<i>Third Column (Tswana Name or Names)</i>
Manis temmincki	Pangolin	Kgaga
Otocyon megalotis	Bat-eared Fox	moTlhose
Vulpes chama	Cape (Silver) Fox	leSie mMyane
Canis mesomelas	Black-backed Jackal	Phokoje emokotla montsho
Canis adustus	Side-striped Jackal	seKgee raNtalaje
Lycaon pictus	Wild Dog	leThalerwa leTeane leKanyane
Mellivora capensis	Honey Badger	Matshwane Magogwe
Lutra maculicollis	Spotted-necked Otter	leNyibi lelemaroo
Aonyx capensis	Clawless Otter	leNyibi lelesenang maroo
Viverra civetta	Civet	Tshipalore
Genetta genetta	Small-spotted Genet	Tshipa ennye
Genetta tigrina	Rusty-spotted Genet	Tshipa emmala Thokolo



**D.336**

<i>First Column (Latin or Scientific Name)</i>	<i>Second Column (English Name)</i>	<i>Third Column (Tswana Name or Names)</i>
<i>Proteles cristatus</i>	Aardwolf	Thukwe mMabudu
<i>Hyaena brunnea</i>	Brown Hyena	Phiritshwana leFiritau
<i>Crocuta crocuta</i>	Spotted Hyena	Phiri leHolo
<i>Felis libyca</i>	African Wild Cat	Phage Tibe
<i>Felis nigripes</i>	Black-footed Cat	seBalabolokwane
<i>Felis serval</i>	Serval	Tadi
<i>Felis caracal</i>	Lynx (Caracal)	Thwane
<i>Panthera pardus</i>	Leopard	Nkwe
<i>Panthera leo</i>	Lion	Tau
<i>Acinonyx jubatus</i>	Cheetah	leNgau leTlotse
<i>Orycteropus afer</i>	Antbear	Thakadu
<i>Loxodonta africana</i>	Elephant	Tlou
<i>Procavia capensis</i>	Dassie	Pela etletsetletse
<i>Dendrohyrax brucei</i>	Yellow-spotted Dassie	Pela emmala
<i>Diceros bicornis</i>	Black Rhinoceros	Tshukudu
<i>Ceratotherium simus</i>	White Rhinoceros	moGohu
<i>Equus burchelli</i>	Zebra	Pitse yanaga Pitse etilotsana
<i>Potamochoerus porcus</i>	Bush Pig (Wild Pig)	Kolobe yanaga Kolobe nkotola
<i>Phacochoerus aethiopicus</i>	Wart Hog	Kolobe
<i>Hippopotamus amphibius</i>	Hippopotamus	Kubu
<i>Giraffa camelopardalis</i>	Giraffe	Thutlwa
<i>Sylvicapra grimmia</i>	Duiker	Phuti
<i>Raphicerus campestris</i>	Steenbok	Phuduhudu Puruburu
<i>Raphicerus sharpei</i>	Sharpe's Grysbok	Phuduhudu ennye
<i>Ourebia Ourebia</i>	Oribi	Phuduhudu kgamane
<i>Oreotragus Oreotragus</i>	Klipspringer	moKabayane moTsweima
<i>Redunca fulvorufula</i>	Mountain Reedbuck	Mhele moTsosa
<i>Redunca arundinum</i>	Reedbuck (Vlei)	seBugata
<i>Kobus ellipsiprymnus</i>	Waterbuck	leTimoga
<i>Kobus vardoni</i>	Puku	Puku
<i>Kobus leche</i>	Lechwe	leTswewe
<i>Aepyceros melampus</i>	Impala	Phala
<i>Antidorcas marsupialis</i>	Springbok	Tshephe

<i>First Column (Latin or Scientific Name)</i>	<i>Second Column (English Name)</i>	<i>Third Column (Tswana Name or Names)</i>
Oryx gazella	Gemsbok	Kukama
Hippotragus equinus	Roan Antelope	Kwalata etshetlha
Hippotragus niger	Sable Antelope	Kwalata entsho
Damaliscus lunatus	Tsessebe	Tshesebe Kabole
Alselaphus buselaphus	Red Hartebeest	Kgama
Connochaetes taurinus	Blue Wildebeest	Kgokong
Tragelaphus spekei	Sitatunga	Naakong seTatunga
Tragelaphus scriptus	Bushbuck	seRolo-botlhoko Ngurungu
Tragelaphus strepsiceros	Kudu	Tholo
Taurotragus oryx	Eland	Phofhu
Syncerus caffer	Buffalo	Nare
Hystrix africaeaustralis	Porcupine	Noko
Struthio camelus	Ostrich	Ntshe Otshwe
Otis Kori	Kori Bustard	Kgori etletsetletse
Neotis denhami	Stanley Bustard	Kgori yagaStanley
Erinaceus frontalis	Hedgehog	Tlhong seThathabele
Family OTIDIDAE	Korhaans	meKgweba meKhoba
Family GRUIDAE	Cranes	meGolori
Family CICONIIDAE	Storks	maKololwane maRokgolo
Pelea capreolus	Rhebok	—
Python sebae	Python	Tlhware
sub-order Ophidia	Snakes	diNoga
Varanus spp.	Monitor Lizards (Leguaans)	boGopane boKgwathe
Crocodilus niloticus	Crocodile	Kwena
Galago senegalensis	Night-Ape	moGwele

P.W. REARDON,  
Permanent Secretary.

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
12th December, 1967



**Statutory Instrument No. 75 of 1967**

**THE LOCAL GOVERNMENT (DISTRICT COUNCILS)  
LAW, 1965**

**HAWKING (MODEL) BYE-LAWS, 1967**  
(Published on 29th December, 1967)

In exercise of the powers vested in him by section 36 (1) of the Local Government (District Councils) Law, 1965 (No. 35 of 1965) the Minister of Local Government and Lands hereby makes the following model bye-laws —

**Title**

1. These bye-laws may be cited as the Hawking (Model) Bye-Laws, 1967.

**Interpretation**

2. In these bye-laws, unless the context otherwise requires —

“Council” means any District Council which has adopted these bye-laws ;

“Council officer” means and includes Chairman, Secretary Assistant Secretary, Treasurer, Senior Revenue Officer, Revenue Collectors and Chairman of the Trade Licensing Committee ;

“district” means the area of a District Council as defined by the order establishing such Council ;

“general trader” includes small general trader ;

“hawker” means any person who hawks within the meaning of the Trading Act ;

“licensing authority” means the Council or any committee convened by the Council to perform its functions under these bye-laws and in the case of the Chobe District means the District Commissioner ;

“licensing officer” means a licensing officer appointed by the Council for the purposes of these bye-laws ;

“Trading Act” means the Trading Act, 1966 (No. 6 of 1966) or any Act substituted therefor.

**Licence Required to carry on Hawker's Business**

3. A person may hawk in the district if and only if he is the holder of a valid hawker's licence issued (or renewed) by the licensing authority:

Provided that a person, and members of the immediate family of such person, hawking agricultural or horticultural produce grown by him within the Council area, or eggs from hens kept within the Council area, may do so without a hawker's licence.

**Period of Hawker's Licence**

4. All hawker's licences issued by the licensing officer shall be quarterly licences.

**Applications for Hawker's Licence**

5. Any person who wishes to obtain a hawker's licence shall make application therefor to the licensing officer

## **D.340**

### **Issue of Hawker's Licence**

6. (1) A licensing officer to whom such an application is made shall if authorised to do so by the licensing authority, issue the applicant a licence on payment of a fee of R12.

(2) The licensing authority may in its discretion refuse to authorise the issue of a licence to a person who —

- (a) is a minor ; or
- (b) is an unrehabilitated insolvent ; or
- (c) has assigned his estate for the benefit of his creditors ; or
- (d) is unable to satisfy the licensing authority that he has made satisfactory provision for the keeping of proper books of accounts ; or
- (e) has, during the five years preceding the application, been convicted of any offence —
  - (i) under the Trading Act or these bye-laws ; or
  - (ii) under any law repealed by the said Act ; or
  - (iii) involving dishonesty ; or
- (f) has, during the five years preceding the application, been sentenced to imprisonment without the option of a fine for a term of or exceeding six months.

(3) The licensing authority may in its discretion direct that a hawker's licence should not be issued if in its opinion the issue of a licence would be contrary to the public interest.

### **Issue of Duplicate Licence**

7. The Council Treasurer, on being satisfied that a hawker's licence issued by him has been lost or destroyed, and on payment of a fee of fifty cents, shall issue a duplicate licence to the hawker.

### **Procedure of Licensing Authority**

8. Where an application for a licence is made in terms of bye-law 5 the licensing authority shall consider the application *mutatis mutandis* in accordance with the provisions of Part IV of the Trading Act, and subject thereto may regulate its own procedure.

### **Hawker Entitled to Sell Goods of a Certain Kind**

9. The holder of a hawker's licence shall be entitled thereby to sell any goods which he would be permitted to sell if he were the holder of a general trading licence and fresh produce licence in terms of the Trading Act.

### **Conditions of Hawker's Licence**

10. A hawker's licence may be issued subject to such conditions as the Council may, by bye-law, prescribe.

### **Area for which Hawker's Licence is Valid**

11. (1) The licensing authority may at its discretion limit the area within which a hawker's licence is valid. If the licensing authority exercises this discretion hawking by the licensee or his agent shall be limited accordingly to the area allocated by the licensing authority.

(2) All hawker's licences shall be endorsed by the licensing officer to show the area for which they are valid.

(3) Any person who hawks outside the area allocated to him in terms of this bye-law shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

**Cancellation of Licences**

12. The holder of a hawker's licence who is convicted —

- (a) of giving short change, short measure or short weight or of any offence under the Trading Act or these bye-laws; or
- (b) of any offence mentioned in Chapter XXXI or Chapter XXXVIII of the Penal Code; or
- (c) of an offence under the Trade Marks Proclamation or the Patents and Designs Protection Proclamation (Chapter 155);

shall, in addition to any penalty to which he may otherwise be liable, be liable in the discretion of the court to have his licence cancelled with effect from such date as the court may consider necessary to enable him to dispose of his existing stocks, and to be debarred from obtaining another licence for such period as the court may determine.

**Transfer of Licence Prohibited**

13. A hawker's licence is not transferrable except that the provisions of section 18 of the Trading Act shall otherwise apply *mutatis mutandis*.

**Licence to be Produced for Inspection**

14. (1) Every licensee shall produce his licence for inspection on demand by any administrative, police or Council officer.

(2) Any person who fails to comply with the provisions of sub-bye-law (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100.

**Appeal**

15. Any person aggrieved by any decision of the licensing authority may appeal to the Minister whose decision shall be final.

M.T.M. KGOPO,  
Permanent Secretary.

Ministry of Local Government and Lands,  
GABERONES.  
18th December, 1967.



**Statutory Instrument No. 76 of 1967.**

**THE FAUNA CONSERVATION PROCLAMATION, 1961**

**THE FAUNA CONSERVATION (TROPHY DEALERS) REGULATIONS, 1967**

(Published on 29th December, 1967)

In exercise of the powers vested in him under section 93 as read with section 67 of the Fauna Conservation Proclamation, 1961, the Minister of Commerce, Industry and Water Affairs hereby makes the following regulations —

**Citation and Date of Commencement**

1. These regulations may be cited as the Fauna Conservation (Trophy Dealers) Regulations, 1967, and shall come into operation upon the commencement of the Fauna Conservation (Amendment) Act, 1967 (No. 47 of 1967).

**Interpretation**

2. In these regulations unless the context otherwise requires —

“day of acquisition” means the day when a trophy is brought onto the premises of the trophy dealer;

“disposal” includes the passing of a trophy from one of the premises of a trophy dealer to another.

**Rendering of Returns of Trophy Dealers**

3. (1) A trophy dealer shall render, in the form prescribed in the Schedule, a return of all trophies exported from Botswana, imported into Botswana and sold locally by him during the two monthly period commencing on the first day of the month following the last two monthly period in respect of which a return was required to be rendered under the Fauna Conservation (Records and Returns by Trophy Dealers) Regulations, 1967 (S.I. No. 30 of 1967) and in respect of every two monthly periods thereafter.

(2) A return referred to in subregulation (1) shall be made on or before the 15th of the month next following the end of the period to which the return relates and shall be rendered to —

(a) the Chief Game Warden, Private Bag 4, Gaborone; and

(b) the District Commissioner of the District in which the trophy dealer carries on business.

**Keeping of Registers by Trophy Dealers**

4. (1) A trophy dealer shall keep a register in which he shall enter on the day of acquisition by him of any trophy the nature of the trophy and the person from whom such trophy was obtained; and he shall further enter into such register upon the day when such trophy is disposed of the date of such disposal and the manner in which the trophy has been disposed of and, if such trophy has been disposed of to any other person, the name of such other person.

(2) A copy of every return rendered by a trophy dealer under the provisions of regulation 3 shall be retained and kept by him in the form of a register.



**D.344**

(3) The registers kept under the provisions of subregulations (1) and (2) shall be registers for the purposes of section 67 of the Fauna Conservation Proclamation, 1961.

**Incomplete, False, Inaccurate and Misleading Returns and Registers**

5. A return made under the provisions of regulation 3 or a register kept under the provisions of regulation 4 which is not complete or which contains information which is false, inaccurate or misleading shall not be a return or register for the purposes of section 67 of the Fauna Conservation Proclamation, 1961.

**Marking of Trophies**

6. Every trophy dealer shall, upon the day when he acquires any trophy, mark upon such trophy in indelible ink the date of such acquisition and the number of his Trophy Dealer's Licence.

**Penalties**

7. Any trophy dealer who —

- (a) fails to enter any matter which is required to be registered under the provisions of regulation 4 (1) upon the day prescribed in that regulation ;
- (b) contravenes regulation 6 ;

shall be guilty of an offence and shall be liable, on conviction, to a penalty not exceeding two hundred rand, or, in default of payment thereof, to imprisonment for a period of six months, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

**Revocation**

8. The Fauna Conservation (Records and Returns by Trophy Dealers) Regulations, 1967 (S.I. No. 30 of 1967) are revoked.

## SCHEDULE

### RETURN OF GAME TROPHIES AND KAROSSES

(Section 67, Fauna Conservation Proclamation, 1961)

Trophy Donor .....  
Address: .....

Date ..... to .....

Please state the quantity of game skins, trophies, carcases and parts both bought and sold locally, imported and exported, in or outside Botswana; the average price paid for articles bought and the average selling price of articles sold. This return must be submitted to the Chief Game Warden, Private Bag 4, Gaborone and to the District Commissioner of the district in which your entry of business every two months, and should cover the periods: 1st January - 28th February, 1st March - 30th April, Gaborone.

[illegible]

C. BOOCOCK.  
for Permanent Secretary.

Ministry of Commerce, Industry and Water Affairs.  
GABERONES.  
15th December, 1967.

**Statutory Instrument No. 77 of 1967**

**PENSIONS (CONSOLIDATION) LAW, 1965**

**AMENDMENT OF THE FIRST SCHEDULE**

In exercise of the powers vested in him by section 4 (1) of the Pensions (Consolidation) Law, 1965 (Law No. 17 of 1965) His Excellency the President has amended the First Schedule thereto by the addition of the following offices —

**Administration of Justice**

Assistant Registrar and Master

**Agricultural Department**

Principal

Engineer

Assistant Engineer

Works Manager

Senior Mechanic

Lecturer

Works Foreman

Inspector of Works

Construction Foreman

Farm Manager

Assistant Lecturer

Matron

**Attorney-General's Chambers**

Deputy Attorney-General

Senior Crown Counsel

Senior State Counsel

Legal Draftsman

State Counsel

**Audit Department**

Principal Auditor

**Botswana Training Centre**

Lecturer

Instructor

Assistant Instructor

Typing Instructor

**Community Development**

Commissioner of Community Development

Community Development Assistant

**Co-operative Societies**

Assistant Registrar

**D.348**

**Education Department**

Principal  
Secretary  
Headmaster  
Assistant Education Officer  
Secretary Teaching Service  
Bursar  
Post Primary Public Officer  
Principal and Teacher  
Primary Public Officer  
Headmaster and Teacher

**Forests**

Forest Officer  
Forester

**Game**

Chief Game Warden  
Senior Game Warden  
Game Warden  
Assistant Game Warden

**Geological, Hydrological and Mineral Survey**

Senior Geologist  
Cartographer  
Clerks/Storekeeper  
Field Assistant  
Works Staff

**Land Settlement**

Land Settlement Officer

**Local Government Audit**

Senior Auditor

**Library**

Library Assistant (Trainee)

**Medical Department**

Senior Medical Officer .  
Chief Matron .  
Matron II .  
District Nurse .  
Enrolled Nurse .  
Surgeon Specialist.  
Matron I.  
Senior Health Inspector.  
Health Inspector.

Laboratory Technician.  
Pharmacist.  
Radiographer.  
Chief Dispenser.  
Senior Sanitary Inspector.  
Housekeeper.  
Microscopist.  
Entomological Assistant.  
Field Assistant/Driver  
Rodent Assistant

**Ministry of Agriculture**

Marketing Officer

**Ministry of Finance**

Deputy Financial Secretary  
Under-Secretary  
Statistician.  
Accountant-General  
Principal Revenue Officer and Collector of Income Tax.  
Technician  
Director of Planning  
Machine Operator.  
Assistant Machine Operator.  
Commissioner of Revenue and Collector of Income Tax.  
Controller of Stores.  
Assistant Controller of Stores.  
Storekeeper.  
Furniture Officer  
Assistant Secretary (Officer in Charge)

**Ministry of Home Affairs**

Secretary to the Cabinet  
Under Secretary (Overseas Affairs)  
Clerk to the Cabinet  
Private Secretary  
Archivist  
Establishment Secretary  
Training Officer  
Technician (Radio)  
Senior Information Officer  
Press Officer  
High Commissioner  
Ambassador  
First Secretary  
Typist/Clerk  
Driver/Messenger

## **D.350**

### **Ministries and Departments – (Common Posts)**

Principal  
Administrative Officer  
Engineer  
Personal Secretary  
Senior Clerical Officer  
Higher Clerical Officer  
Clerical Officer  
Clerical Assistant  
Shorthand Typist  
Copy Typist  
Chief Technical Officer  
Senior Technical Officer  
Technical Officer  
Senior Technical Assistant  
Higher Technical Assistant  
Technical Assistant I  
Technical Assistant II  
Artisan  
Laboratory Assistant  
Typist  
Microscopist  
Works Staff, II

### **Ministry of Works and Communications**

Chief Engineer  
Electrical Engineer  
Architect  
Quantity Surveyor  
Chief Inspector of Works  
Architectural Assistant  
Senior Foreman  
Junior Foreman  
Senior Artisan  
Senior Mechanical Engineer  
Workshop Manager  
Senior Mechanic  
Mechanic  
Powerhouse Assistant  
Senior Materials Officer  
Materials Officer  
Senior Plant Operator  
Senior Road Section Officer  
Air Control Officer  
Meteorological Officer  
Senior Telecommunication Officer (Engineering)  
Radio Technician

Telecommunication Officer (Operating)  
Aviation Communicator  
Teleprinter Operator  
Telegraphist

**Office of the President**

Secretary to the Cabinet and Permanent Secretary to the President  
Senior Establishment Officer

**Printing Department**

Government Printer  
Assistant Government Printer  
Vari Typist Instructor  
Senior Varitypist  
Varitypist

**Police Department**

Assistant Commissioner  
Chief Inspector  
Driver  
Senior Radio Operator

**Prisons Department**

Superintendent  
Assistant Superintendent  
Sergeant Warder (Instructor)  
Principal Warder  
Wardress

**Posts and Telegraphs Department**

Postal Assistant, I  
Postal Assistant, II

**Registries Office**

Examiner of Deeds

**Surveyor General's Department**

Surveyor General  
Land Surveyor

**Tsetse Fly Control**

Entomologist

**Veterinary Department**

Senior Dairy Officer  
Senior Grading Officer  
Grading Officer  
Farm Manager

**D.352**

Laboratory Technician  
Transport Officer  
Assistant Laboratory Technician  
Assistant Detention Officer  
Assistant Transport Officer  
Senior Dairy Assistant

J.A. ALLISON,  
Permanent Secretary.

Office of the President,  
GABERONES.  
14th December, 1967.



Statutory Instrument No. 78 of 1967.

LIQUOR PROCLAMATION, 1960

**LIQUOR (VARIATION OF LICENSING HOURS) ORDER 1967**

In the exercise of the powers vested in him under section 8A of the Liquor Proclamation, 1960, the Minister of Commerce, Industry and Water Affairs hereby makes the following Order —

**Citation**

1. This Order may be cited as the Liquor (Variation of Licensing Hours) Order, 1967.

**Extension of Hours on New Year's Eve and New Year's Day**

2. Notwithstanding anything to the contrary in the Liquor Proclamation, 1960, an hotel liquor licence, a club liquor licence, a bar liquor licence or a restaurant liquor licence shall authorise the sale on the premises specified in the licence, for consumption on the premises, of intoxicating liquor in unsealed vessels or containers in accordance with the Proclamation between the following hours (being hours additional to those prescribed in the Proclamation) —

- (a) between the hours of eleven o'clock in the evening and midnight on 31st of December, if that day is not a Sunday; and
- (b) between the hours of ten o'clock in the evening and midnight on the 31st of December if that day is a Sunday; and
- (c) between the hours of midnight and one o'clock in the morning on the 1st January;
- (d) in the case of a restaurant liquor licence between the hours of ten o'clock and eleven o'clock in the evening on 31st December (being hours in addition to those prescribed in paragraphs (a), (b) and (c)).

L.D. LEKALAKE,  
for Permanent Secretary.

Ministry of Commerce, Industry and Water Affairs,  
GABERONES.  
27th December, 1967.

**D.354**

**Statutory Instrument No. 79 of 1967**

**REVOCATION OF REGULATIONS FOR THE CONTROL OF PRODUCERS' AGENTS  
IN ABATTOIRS**

In exercise of the powers vested in him by section 3 of the Livestock and Meat Industries Law, 1962, His Excellency the President hereby revokes Government Notice No. 40 of 1954, being the Regulations for the Control of Producers' Agents in Abattoirs.

J.A. ALLISON,  
Permanent Secretary

Office of the President,  
GABERONES.  
28th December, 1967.

**Statutory Instrument No. 80 of 1967**

**CONTROL OF LIVESTOCK INDUSTRY PROCLAMATION (CHAPTER 109)**

**THE CONTROL OF LIVESTOCK REGULATIONS, 1967**

In exercise of the powers vested in him by sections 6 (2) and 31 of the Control of Livestock Industry Proclamation (Chapter 109) His Excellency the President hereby makes the following regulations —

**Citation**

1. These regulations may be cited as the Control of Livestock Regulations, 1967, and shall come into force on the 1st January, 1968.

**Interpretation**

2. In these regulations —

“district” means an administrative district prescribed under section 5 (2) (a) of the General Administration Proclamation (Chapter 35);

“licence” means a licence under Part I of the Control of Livestock Proclamation.

**Permits Restricted to Area of Issue**

3. Every licence shall be issued subject to the condition that the licence shall be valid within the district in which it is issued only unless the officer authorised to issue licenses in some other district endorses the licence for use in such other district.

**No Person to Have More than One Licence**

4. Not more than one licence shall be issued to any person in respect of any district and no person shall acquire more than one licence authorising the buying of livestock within any district.

J.A. ALLISON,  
Permanent Secretary

Office of the President,  
GABERONES.  
28th December, 1967.

THE AFRICAN COURTS PROCLAMATION: 1961

**COURTS WARRANTS**

For general information it is notified that court warrants in terms of section 3 (2) of the African Courts Proclamation (No. 19 of 1961) have been issued for the courts listed in the Schedule below. District, Name of Court, Area of jurisdiction civil and criminal, and Date of issue of the warrant are set out in the columns.

The letters in the jurisdiction columns refer to maximum fines or punishments or awards according to the following key:

**Civil Jurisdiction.**

- A. Unlimited.
- B. R400: 25 bovines or equines: 150 small stock.
- C. R300: 20 bovines or equines: 100 small stock.
- D. R200: 12 bovines or equines: 75 small stock.

**Criminal Jurisdiction.**

- E. R400: 25 bovines or equines: 150 small stock. 2 years: eight strokes.
- F. R300: 20 bovines or equines: 100 small stock. 1 year: four strokes.
- G. R200: 12 bovines or equines: 75 small stock. 6 months: four strokes.
- H. R100: 6 bovines or equines: 40 small stock. 3 months: four strokes.

**Extended Criminal Jurisdiction in Stock Theft Cases.**

- I. R1,600: 100 bovines or equines: 600 small stock.
- J. R800: 50 bovines or equines: 300 small stock.
- K. R300: 20 bovines or equines: 100 small stock.

M.T.M. KGOPO,  
Permanent Secretary, Ministry of Local Government and Lands.

SCHEDULE  
AFRICAN COURT WARRANTS

<i>District</i>	<i>Court</i>	<i>Area</i>	<i>Jurisdiction</i>		<i>Date of Issue</i>
			<i>Civil</i>	<i>Criminal</i>	
Ngwato	African Authority	Bamangwato Tribal Territory	A	EI	25. 7.62
Ngwato	Sub. African Authority	Serowe	B	G	25. 7.62
Ngwato	Sub. African Authority	Bokalaka	B	G	25. 7.62
Ngwato	Sub. African Authority	Bobirwa	B	G	25. 7.62
Ngwato	Sub. African Authority	Mahalapye	B	G	25. 7.62
Ngwato	Sub. African Authority	Bokhurutsle	B	G	25. 7.62
Ngwato	Sub. African Authority	Mookane	B	G	25. 7.62
Ngwato	Sub. African Authority	Mocha	B	G	25. 7.62
Ngwato	Sub. African Authority	Nata	B	G	25. 7.62
Ngwato	Sub. African Authority	Madinare	B	G	25. 7.62
Ngwato	Sub. African Authority	Tswapong	B	G	25. 7.62
Ngwato	Sub. African Authority	Shoshong	B	G	25. 7.62
Ngwato	Sub. African Authority	Palapye	B	G	25. 7.62
Ngwato	Sub. African Authority	Botletle	B	G	25. 7.62
Ngwato	Sub. African Authority	Palla Road	B	G	25. 7.62
Ngwato	Sub. African Authority	Seruli	B	G	25. 7.62
Ngwato	Sub. African Authority	Letlhakana	B	G	25. 7.62
Ngwato	Headman's Court	Basimane Ward Serowe	B	G	25. 7.62
Ngwato	Headman's Court	Ditimamodimo Ward Serowe	B	G	25. 7.62

<i>District</i>	<i>Court</i>	<i>Area</i>	<i>Jurisdiction</i>		<i>Date of Issue</i>
			<i>Civil</i>	<i>Criminal</i>	
Ngwato	Headman's Court	Maalaso Ward Serowe	B.	G	25. 7.62
Ngwato	Headman's Court	Maalaso a Ngwana Ward, Serowe	B	G	25. 7.62
Ngwato	Headman's Court	Toronoja	D	H	25. 7.62
Ngwaketse	Chiefs Court	Bangwaketse Tribal Territory	A	EI	25. 7.62
Ngwaketse	Chief's Representative Court	Khakhea	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Kgaro	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Kokong	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Macheng	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Manyana	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Moshupa	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Ntlhantlhe	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Ranaka	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Lekgolobotlo	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Molapowabojang	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Molapo	B	G	25. 7.62
Ngwaketse	Chief's Representative Court	Moshaneng	B	G	25. 7.62
Ngwaketse	Headmen's Court	Ntlhayatlase Ward	B	G	25. 7.62
Ngwaketse	Headmen's Court	Kgosing Ward	B	G	25. 7.62
Ngwaketse	Headmen's Court	Ntlhayagodimo Ward	B	G	25. 7.62
Ngwaketse	Headmen's Court	Digawana	D	H	25. 7.62
Ngwaketse	Headmen's Court	Gookadisa	D	H	25. 7.62
Ngwaketse	Headmen's Court	Manyana	D	H	25. 7.62
Ngwaketse	Headmen's Court	Mathethe	D	H	25. 7.62
Ngwaketse	Headmen's Court	Moshupa	D	H	25. 7.62
Ngwaketse	Headmen's Court	Leporung	D	H	25. 7.62
Ngwaketse	Headmen's Court	Mabule	D	H	25. 7.62
Ngwaketse	Headmen's Court	Phitshane	D	H	25. 7.62

E.108

District	Court	Area	Jurisdiction		Date of Issue
			Civil	Criminal	
Ngwaketse	Headmen's Court	Tshidilamolomo	D	H	25. 7.62
Ngwaketse	Headmen's Court	Kue	D	H	25. 7.62
Ngwaketse	Headmen's Court	Magoriapitse	D	H	25. 7.62
Ramoutsa (Bamalete)	Chief's Court	Bamalete Tribal Territory	A	EI	25. 7.62
(Bamalete)	Headmans Court	Mpya Ward	D	H	25. 7.62
(Bamalete)	Headman's Court	Nore Ward	D	H	25. 7.62
(Bamalete)	Headman's Court	Dimpe	D	H	25. 7.62
(Bamalete)	Headman's Court	Goobotse Ward	D	H	25. 7.62
(Bamalete)	Headman's Court	Moeng Ward	D	H	25. 7.62
(Bamalete)	Headman's Court	Ootsi	D	H	25. 7.62
(Bamalete)	Headman's Court	Mogobane	D	H	25. 7.62
Gaberones (Tlokwen)	Chief's Court	Batlokwa Tribal Territory	B	FJ	25. 7.62
(Tlokwen)	Headman's Court	Ditshega Ward	D	H	25. 7.62
(Tlokwen)	Headman's Court	Mafatshwa Ward	D	H	25. 7.62
(Tlokwen)	Headman's Court	Thetha Ward	D	H	25. 7.62
(Tlokwen)	Headman's Court	Magwadi Ward	D	H	25. 7.62
(Tlokwen)	Headman's Court	Monneng Ward	D	H	25. 7.62
Molepolole Kweneng	Chief's Court	Bakwena Tribal Territory	A	EI	25. 7.62
Kweneng	Chief's Representative Court	Mankgodi	B	G	25. 7.62
Kweneng	Chief's Representative Court	Thamaga	B	G	25. 7.62
Kweneng	Chief's Representative Court	Gabane	B	G	25. 7.62
Kweneng	Chief's Representative Court	Mogoditshane	B	G	25. 7.62
Kweneng	Chief's Representative Court	Kopong	B	G	25. 7.62
Kweneng	Chief's Representative Court	Lentsweletau	B	G	25. 7.62
Kweneng	Chief's Representative Court	Kumakwane	B	G	25. 7.62
Kweneng	Chief's Representative Court	Lephepe, Baotlaname Sojwe	B	G	25. 7.62

District	Court	Area	Jurisdiction		Date of Issue
			Civil	Criminal	
Kweneng	Chief's Representative Court	Letlhakeng, Metsibotlako	B	G	25. 7.62
Kweneng	Chief's Representative Court	Mashaweng	B	G	25. 7.62
Kweneng	Chief's Representative Court	Motokwe, Tsetseng	B	G	25. 7.62
Kweneng	Chief's Representative Court	Dutlwe, Takatotwane	B	G	25. 7.62
Kweneng	Chief's Representative Court	Tswaane, Maseru.	B	G	25. 7.62
Kweneng	Chief's Representative Court	Ngware, Batlapatlon	B	G	25. 7.62
Kweneng	Chief's Representative Court	Khudumelapywe	B	G	25. 7.62
Kweneng	Headman's Court	Salajwe, Kutswe			
Kweneng	Headman's Court	Ntloedise Ward	D	H	25. 7.62
Kweneng	Headman's Court	Mokgaleng Ward	D	H	25. 7.62
Kweneng	Headman's Court	Bo Ratshosa Ward	D	H	25. 7.62
Kweneng	Headman's Court	Mamatlala Ward	D	H	25. 7.62
Kgalagadi	Headman's Court	Kaartlwe	D	H	13. 8.62
Kgalagadi	Headman's Court	Makopong	D	H	13. 8.62
Kgalagadi	Headman's Court	Werda	D	H	13. 8.62
Kgalagadi	Headman's Court	Bokspits	D	H	13. 8.62
Kgalagadi	Headman's Court	Lokgware	D	H	13. 8.62
Kgalagadi	Headman's Court	Tshane	D	H	13. 8.62
Kgalagadi	Headman's Court	Kang	D	H	13. 8.62
Kgalagadi	Headman's Court	Lehututu	D	H	13. 8.62
Kgalagadi	Headman's Court	Tshabong(Coloureds)	D	H	13. 8.62
		Tshabong(Damara)	D	H	13. 8.62
		Tshabong(Hottentots)	D	H	13. 8.62
Kgalagadi	Headman's Court	Bagagobe	D	H	13. 8.62
Kgalagadi	Headman's Court	Tshabong(Batlharo)	D	H	13. 8.62
Kgalagadi	Sub-Chief's Court	Hukuntsi	B	G	21. 2.63
Chobe	Sub-Chief's Court	Kavimba	D	H	22.10.62
Chobe	Sub-Chief's Court	Kachikau	D	H	22.10.62
Chobe	Headman's Court	Masarwa Village	D	H	22.10.62
		Pandamatenga			
Chobe	Headman's Court	Maranjwa Village	D	H	22.10.62
		Pandamatenga			
Mochudi					
Kgatlang	Chief's Court	Bakgatla Tribal Territory	A	EI	25. 7.62
Kgatlang	Headman's Court	Morema Ward	D	H	13. 8.62

**E.110**

<i>District</i>	<i>Court</i>	<i>Area</i>	<i>Jurisdiction</i>		<i>Date of Issue</i>
			<i>Civil</i>	<i>Criminal</i>	
Kgatleng	Headman's Court	Mabodisa Ward	D	H	13. 8.62
Kgatleng	Headman's Court	Manamakgote Ward	D	H	13. 8.62
Kgatleng	Headman's Court	Tshukudu Ward	D	H	13. 8.62
Kgatleng	Headman's Court	Sikwane	D	H	13. 8.62
Kgatleng	Headman's Court	Malolwane	D	H	13. 8.62
Kgatleng	Headman's Court	Mabalane	D	H	13. 8.62
Kgatleng	Headman's Court	Modipane	D	H	13. 8.62
Kgatleng	Headman's Court	Morwa	D	H	13. 8.62
Kgatleng	Headman's Court	Oodi	D	H	13. 8.62
Kgatleng	Headman's Court	Bokaa	D	H	13. 8.62
Kgatleng	Headman's Court	Rasesa	D	H	13. 8.62
Kgatleng	Headman's Court	Malotwana	D	H	13. 8.62
Kgatleng	Chiefs Representative Court	Mathubudukwane	B	G	21. 2.63
Kgatleng	Chief's Representative Court	Artesia	B	G	3.10.63
Kgatleng	Chief's Representative Court	Oodi, Modisane and Matebele	B	G	3.10.63
Ghanzi	Sub-African Authority's Court	Makunda	D	H	22.10.62
Ghanzi	Sub. African Authority's Court	Kuli	D	H	22.10.62
Ghanzi	Sub. African Authority's Court	Karakobis	D	H	22.10.62
Ghanzi	Sub. African Authority's Court	Kalkfontein	D	H	22.10.62
Ghanzi	Sub. African Authority's Court	Nojane	D	H	22.10.62
Francistown	Sub. African Authority's Court	Francistown	D	H	22.11.62
Francistown	Sub. African Authority's Court	Nata Crown Lands	D	H	22.11.62
Francistown	Sub. African Authority's Court	Moroka	D	H	22.11.62
Francistown	Sub. African Authority's Court	Masunja	D	H	22.11.62
Francistown	Sub. African Authority's Court	Makaleng	D	H	22.11.62
Francistown	Sub. African Authority's Court	Mapoka	D	H	22.11.62



**E.111**

<i>District</i>	<i>Court</i>	<i>Area</i>	<i>Jurisdiction</i>		<i>Date of Issue</i>
			<i>Civil</i>	<i>Criminal</i>	
Francistown	Sub. African Authority's Court	Mosojane	D	H	22.11.62
Francistown	Headman's Court	Tsamaea	D	H	22.11.62
Francistown	Headman's Court	Butale	D	H	22.11.62
Francistown	Headman's Court	Jackalas (No. 1)	D	H	22.11.62
Francistown	Headman's Court	Senyame	D	H	22.11.62
Francistown	Headman's Court	Jackalas (No. 2)	D	H	22.11.62
Francistown	Headman's Court	Sivia	D	H	22.11.62
Francistown	Sub. Chief's Representatives Court	Matsiloje	D	H	22.11.62
Francistown	Headman's Court	Tssesebe and Themashanga	D	H	3.10.63
Francistown	African Court Div. A	Francistown 27/1960 R1000 See H.C.N. Item 1 & 5 R1000			
	Div. B	Francistown H.C.N. 27/1960 See Item 1 & 5	R50	R20 10 days	
Ngamiland	Chief's Court	Batawana Tribal Territory	A	EI	25. 7.62
Ngamiland	Headman's Court	Bayei Ward (Shorobe)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward	D	H	13.12.62
Ngamiland	Headman's Court	Makalamabedi	D	H	13.12.62
Ngamiland	Headman's Court	Bayei Ward (Maun)	D	H	13.12.62
Ngamiland	Headman's Court	Mabudutsa Ward(Maun)	D	H	13.12.62
Ngamiland	Headman's Court	Borameno Ward(Maun)	D	H	13.12.62
Ngamiland	Headman's Court	OvaBandero Ward (Sehitwa)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward (Sehitwa)	D	H	13.12.62
Ngamiland	Headman's Court	OvaHerero Ward (Makakung)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward (Tsau)	D	H	13.12.62
Ngamiland	Headman's Court	Xangwa- Xnau- Xnau- Xa- Xa- Xamu	D	H	13.12.62
Ngamiland	Headman's Court	Bayei Ward(Nokaneng)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward (Nokaneng)	D	H	13.12.62
Ngamiland	Headman's Court	Bayei Ward (Gomare)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward(Gomare)	D	H	13.12.62

E.112

<i>District</i>	<i>Court</i>	<i>Area</i>	<i>Jurisdiction</i>		<i>Date of Issue</i>
			<i>Civil</i>	<i>Criminal</i>	
Ngamiland	Headman's Court	Bayei Ward(Seronga)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward (Seronga)	D	H	13.12.62
Ngamiland	Headman's Court	Bayei Ward(Sepopa Ikwaga)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward(Sepopa)	D	H	13.12.62
Ngamiland	Headman's Court	Kgosing Ward (Shakawe)	D	H	13.12.62
Ngamiland	Chief's Representative Court	Shorobe	B	G	13.12.62
Ngamiland	Chief's Representative Court	Makalamadi	B	G	13.12.62
Ngamiland	Chief's Representative Court	Maun	B	G	13.12.62
Ngamiland	Chief's Representative Court	Sehitwa/Toteng	B	G	13.12.62
Ngamiland	Chief's Representative Court	Tsau Makakung	B	G	13.12.62
Ngamiland	Chief's Representative Court	Nokaneng	B	G	13.12.62
Ngamiland	Chief's Representative Court	Gomare	B	G	13.12.62
Ngamiland	Chief's Representative Court	Seronga	B	G	13.12.62
Ngamiland	Chief's Representative Court	Sepopa – Ikwaga	B	G	13.12.62
Ngamiland	Chief's Representative Court	Shakawe/Mohembo	B	G	13.12.62
Ngwaketse	Chief's Court	Barolong Tribal Territory	B	FJ	21. 2.63
Ngwaketse	Chief's Representative Court	Barolong Tribal Territory	C	G	21. 2.63
Ngwaketse	Peleng	Peleng	D	H	21. 2.63

