

**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;"

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 Section 4 of the principal law is repealed and the following section substituted therefor —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