

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."

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."

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".

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.