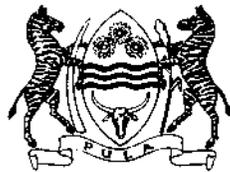


**UNIFIED LOCAL GOVERNMENT SERVICE ACT, 1973**

**No. 13**



**of 1973**

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**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A UNIFIED LOCAL GOVERNMENT SERVICE WHICH SHALL BE THE SOLE EMPLOYER OF CERTAIN LOCAL GOVERNMENT EMPLOYEES AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO**

*Date of Assent:* 22.6.73

*Date of Commencement:*

ENACTED by the Parliament of Botswana.

**PART I**  
**PRELIMINARY**

1. This Act may be cited as the Unified Local Government Service Act, 1973. Short title
2. In this Act unless the context otherwise requires – Inter-pretation
- “appointing authority” means the Establishment Secretary and any person to whom he has delegated his powers under section 6 (2);
- “Commission” means the Local Government Service Commission established under section 23;
- “district council” means a district council appointed under the Local Government (District Councils) Law, 1965;
- “Establishment Secretary” means the Establishment Secretary appointed under section 5;
- “land board” means a land board or subordinate land board established by or under the Tribal Land Act, 1968; No. 54 of 1968
- “local authority” means a land board, a district council, a township authority or a town council, as the context may require;
- “local government officer” means a person in local government service;
- “local government service” means the unified local government service covering all persons employed by and receiving salary or wages from a local authority;
- “permanent terms”, in relation to a local government officer, means having been admitted to the Local Councils Employees Provident Fund established under the Local Councils Employees Provident Fund Law, 1966; Law 38 of 1966
- “public office” and “public officer” shall have the same meanings as in the Constitution;
- “principal officer” means a clerk to a township authority or town council or secretary of a district council, as the context may require;
- “senior officer” means a clerk or secretary to a local authority, a deputy clerk or secretary, a treasurer or deputy treasurer, an engineer, a health inspector, an education secretary or such other person as the Minister may, by notice in the Gazette, declare to be a senior officer for the purposes of this Act;
- “township” means a township declared under the Townships Proclamation;
- “township authority” means a township authority established under the Township Proclamation;
- “town council” means a town council established under the Townships Proclamation.

**PART II**  
**APPLICATION**

Application  
of Act

**3.** (1) The provisions of this Act shall apply to all officers in the local government service with the exception of the classes of persons specified in the Schedule.

(2) The Minister may, by order published in the Gazette, delete paragraphs 2 and 3 from the Schedule.

(3) Nothing in this Act shall be construed as implying that a local government officer is, *ipso facto*, a public officer.

Contracts of  
service

**4.** On and after the commencement of this Act any contract of service between a local government officer and a local authority shall be deemed to have been made under this Act and between such officer and the Establishment Secretary and the provisions of this Act shall apply to any such contract, and no such local government officer shall be subject to any condition of service which is less favourable to him than any similar condition which applied in his case immediately before the commencement of this Act.

**PART III**  
**ADMINISTRATION AND APPOINTMENTS TO  
LOCAL GOVERNMENT SERVICE**

Establishment  
Secretary

**5.** (1) There shall be an Establishment Secretary who shall be a public officer.

(2) The Establishment Secretary shall have vested in him the administration of the local government service and without prejudice to the generality of the foregoing shall be responsible for --

(a) conditions of appointment and terms of service;

(b) recruitment, transfer and promotion of officers;

(c) staff complements and gradings;

(d) administration, structure and assessment of salaries;

(e) local authority service training policy;

(f) discipline, staff training and welfare;

(g) localization and staff development programmes;

(h) staff inspections and organization and methods;

(i) allowances and the policy with regard to gratuities;

(j) personnel statistics.

Terms and  
conditions  
of local  
government  
service

**6.** (1) The power to appoint officers in the local government service, to exercise disciplinary control over and to remove from office in the local government service shall rest in the Establishment Secretary in accordance with this Act and any regulations made thereunder:

Provided that in respect of senior officers such powers shall only be exercised with the consent of the Minister.

(2) The Establishment Secretary may, with the consent of the Minister, by directions in writing, delegate any of his powers under this Act, other than his powers in respect of senior officers, to any principal officer but notwithstanding any such delegation the Establishment Secretary may vary or set aside any decision of a principal officer in the exercise of his delegated powers.

**7.** (1) In selecting candidates for appointment an appointing authority shall have regard primarily for the efficiency of the local government service. Criterion for appointment

(2) Where any office in the local government service is vacant the following persons shall, subject to satisfying any scheme of service laying down the qualifications for any such office, be qualified for appointment to such office in the following order of priority –

- (a) any local government or public officer who is a citizen of Botswana;
- (b) any other citizen of Botswana;
- (c) any local government or public officer who is not a citizen of Botswana;
- (d) any other person who is not a citizen of Botswana.

(3) Notwithstanding the provisions of subsection (2) the Minister may waive the requirements of a scheme of service if it is in the interests of the local government service so to do.

**8.** (1) No person who has been convicted of an offence involving moral turpitude or who has been dismissed from the public service or from the local government service shall be appointed to an office in the local government service without the approval of the Minister. Disqualification for appointment

(2) No person shall be appointed to an office in the local government service unless he holds such qualifications as have been prescribed for appointment to that office.

(3) No person who is not a citizen of Botswana shall be appointed to any office in the local government service unless the appointing authority is satisfied that no citizen of Botswana is qualified and suitable for appointment.

**9.** (1) Where any person is appointed to any office in the local government service (otherwise than on promotion or transfer) on permanent terms he shall first serve a probationary period of two years or such other period as the Minister may prescribe for particular offices. Probation

(2) Where any person who is required to serve on probation under this section has previously been employed in the service of the Government or a local authority or in such other service as may

be prescribed, the period or any part thereof of such previous service may, in the discretion of the appointing authority, be regarded as service on probation for the purposes of subsection (1).

(3) Notwithstanding anything contained elsewhere in this section or in any other written law, a local government officer shall remain on probation unless and until he is informed in writing by the appointing authority that —

- (a) he is confirmed in his office; or
- (b) his appointment in his office is terminated.

Date of promotion

**10.** (1) Where any local government officer is appointed to any local government office on promotion the effective date of his promotion to such office shall, subject to the provisions of subsection (2), be determined by the appointing authority.

(2) The appointing authority shall not fix as a date of promotion a date which is earlier than the last of the following dates —

- (a) the date on which the vacancy occurred;
- (b) the date upon which the officer became qualified for promotion;
- (c) the date upon which the officer assumes the functions of the office:

Provided that the appointing officer may, in special circumstances, fix a date of promotion which is earlier than the date mentioned in paragraph (c) but no such date shall be appointed which is earlier than the later of the dates specified in paragraphs (a) and (b).

#### **PART IV**

#### **TERMINATION OF APPOINTMENTS AND RETIREMENTS**

Termination of contract

**11.** If it appears to the appointing authority that the appointment of a local government officer serving on contract should be terminated (otherwise than by dismissal) in accordance with the provisions of his contract, the appointing authority shall advise the officer in writing that the termination of his contract is under consideration and inform him of his right to make representations thereon within twenty-one days; on the expiry of the period of twenty-one days and after considering any representations made by the officer the appointing authority shall decide whether or not the contract shall be terminated.

Retirement of local government officers

**12.** (1) In this section “local government officer” means a local government officer admitted to permanent terms of service.

(2) Subject to the provisions of this section, a local government officer shall retire from the local government service on attaining the age of sixty years but a female local government officer may retire on marriage.

(3) Subject to the provisions of this section, a local government officer who has attained the age of forty-five years may, in the discretion of the appointing authority and in the interests of the service, be retired from the local government service.

(4) Subject to the provisions of subsection (3), a local government officer shall have the right at any time before or after attaining the age of forty-five years to give written notification to the appointing authority of his wish to be retired from the local government service, and if he gives such notification he shall –

(a) if such notification is given at least three calendar months prior to the date on which he attains the said age, be so retired on attaining that age; or

(b) if such notification is not given at least three calendar months prior to the date on which he attains the said age, be so retired on the first day of the fourth month following the month in which the notification is received.

(5) If in the opinion of the appointing authority it is in the public interest to retain a local government officer in his office beyond the age at which under this section he is required to retire, such officer may, if he is so willing, be so retained from time to time by the appointing authority for such periods as that authority may determine.

(6) On the abolition of any local government office, a local government officer holding the same shall, unless transferred by the appointing authority to some other local government office, be deemed to have retired.

**13.** (1) Where it appears to the appointing authority that a local government officer is incapable by reason of any infirmity of mind or body of discharging the functions of his office, he may, and shall if the officer so requests, call upon such officer to present himself to a medical practitioner nominated by the appointing authority or to a medical board nominated by the appointing authority, with a view to it being ascertained whether or not such officer is incapable as aforesaid.

Retirement  
on medical  
grounds

(2) After the local government officer has been examined by the medical practitioner or the board, as the case may be, the medical practitioner or board shall forward the report of the examination to the appointing authority who shall consider the report and any representations which the officer concerned wishes to make, and the appointing authority shall then decide whether the officer should be called upon to retire on medical grounds.

**PART V**  
**LOCAL GOVERNMENT OFFICERS**

General duties of local government officers

**14.** It shall be the duty of every local government officer to aid and assist the local authority to which he is attached, posted or transferred, to carry out and obey all lawful orders of that local authority and to exercise the functions of his office impartially, efficiently and without delay so as to serve the public and promote their welfare and lawful interests.

Whole time of local government officer at disposal of local authority

**15.** Unless it is provided in the terms of his appointment or in any other written law –

- (a) every local government officer shall place the whole of his time at the disposal of the local authority to which he is attached, posted or transferred; and
- (b) no local government officer may claim as of right additional remuneration in respect of any official duty or work he is required to perform by the Establishment Secretary, an appointing authority or a local authority.

No additional fee for services

**16.** No fee, reward or remuneration of any kind whatsoever, beyond his salary and any allowances paid to him, shall be received and kept for his own use by a local government officer for the performance of any service for a local authority unless specially authorized by law or by the terms of his appointment or by the Establishment Secretary.

Salary and allowances not to be ceded

**17.** Subject to the provisions of any other written law, no local government officer shall, except in the case of payments for the maintenance of his spouse or children, without the written approval of the Establishment Secretary, cede, assign or transfer the whole or any part of any salary or allowance paid to him.

Publications, interviews and use of information obtained in performance of duties

**18.** Subject to the provisions of any other written law, no local government officer shall –

- (a) without the permission of the Establishment Secretary, act as editor of a newspaper or take part directly or indirectly in the management thereof, or publish in any manner anything which may reasonably be regarded as being of a political or administrative nature, but such officer may publish in his own name other matter relating to subjects of general interest;
- (b) whether on duty or on leave of absence, and except with the permission of the Establishment Secretary, allow himself to be interviewed on questions of or connected with any matter affecting or relating to the affairs of a local authority;
- (c) directly or indirectly reveal or use for private purposes any information coming to his knowledge or acquired by him or the nature or contents of any document communicated to

him either in the course of his duties or in his capacity as an officer otherwise than in the proper discharge of his duties as authorized by law or competent authority.

**19.** (1) If an appointing authority considers that disciplinary proceedings should be instituted against a local government officer and is of the opinion that such officer should be interdicted from the performance of his duties pending the taking of proceedings against him, the appointing authority may suspend such officer from the performance of his duties for a period not exceeding thirty days and shall make a report of such suspension and the reasons therefor to the Establishment Secretary who may interdict such officer from the performance of his duties and shall decide the amount of salary, being not less than half, that should be paid to such officer during the period of suspension and interdiction.

(2) If an appointing authority, on becoming aware that criminal proceedings have been instituted against a local government officer, is of the opinion that such officer should be interdicted from the performance of his duties, the appointing authority may interdict such officer from the performance of his duties for a period of sixty days and shall immediately report such interdiction and the reasons therefor to the Establishment Secretary; on receipt of such report the Establishment Secretary may revoke, confirm or extend the period of such interdiction and, in the case of confirmation or extension of the period of such interdiction, shall decide the amount of salary, being not less than one half, that should be paid to such officer during the period of interdiction.

(3) If the Establishment Secretary, on becoming aware that criminal proceedings have been or are about to be instituted against a local government officer or considers that disciplinary proceedings should be instituted against a local government officer, is of the opinion that such officer should be interdicted from the performance of his duties pending the taking of proceedings against him, the Establishment Secretary may interdict such officer from the performance of his duties and shall decide the amount of salary, being not less than one half, that should be paid to such officer during the period of interdiction.

(4) If as a result of any disciplinary proceedings a local government officer is awarded a punishment less than dismissal, the Establishment Secretary shall decide what proportion of the salary, if any, withheld shall be paid to such officer:

Provided that if no punishment is awarded the whole of the emoluments withheld shall be paid to such officer.

(5) If a local government officer has been interdicted from the performance of his duties because criminal proceedings had been or were about to be instituted against him and after a period of inter-

diction exceeding six months such criminal proceedings have not been brought to an end, the Establishment Secretary may terminate the interdiction and such officer may be reinstated in the local government service pending the completion of such criminal proceedings.

(6) In this section "appointing authority" means a person to whom the power to appoint to office in the local government service has been delegated under section 6 (2).

Withholding  
of salary

**20.** A local government officer who has been convicted of a criminal offence and has been sentenced to imprisonment whether as a result of the non-payment of a fine or otherwise shall receive no salary from the date of imprisonment pending a decision by the Establishment Secretary as to whether or not any salary shall be paid to such officer during the period of imprisonment and pending the taking of any disciplinary proceedings against him or his dismissal.

#### **PART IV OFFENCES AND PENALTIES**

Influencing  
the Establish-  
ment  
Secretary or  
an appointing  
authority

**21.** Any person who, otherwise than in the course of his duty, or who in the course of his duty improperly, directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence the decision of the Establishment Secretary or an appointing authority shall be guilty of an offence and liable to a fine of five hundred rand and to imprisonment for a period of six months:

Provided that nothing in this section shall be deemed to make unlawful the giving of any reference or testimonial or the supplying of any information or assistance requested by the Establishment Secretary or an appointing authority.

Supplying  
false  
information

**22.** Any person who, in connexion with the exercise of his functions by the Establishment Secretary or an appointing authority, wilfully gives to the Establishment Secretary or an appointing authority any information which he knows to be false or does not believe to be true or which he knows or believes to be misleading by reason of the omission of any material particular shall be guilty of an offence and liable to a fine of five hundred rand and to imprisonment for a period of six months.

#### **PART VII LOCAL GOVERNMENT SERVICE COMMISSION**

Local  
Government  
Service  
Commission

**23.** (1) There shall be a Local Government Service Commission the membership of which shall be the same as that of the Public Service Commission established by and as from time to time consti-

tuted under the Constitution, and the provisions of section 110 of the Constitution shall apply *mutatis mutandis* to the Local Government Service Commission.

(2) The secretary to the Commission shall be a public officer nominated by the Minister.

**24.** (1) Any local government officer who has been removed from office or subjected to any other punishment by the exercise of any power conferred on the Establishment Secretary or an appointing authority may appeal to the Commission who may dismiss such appeal or allow it wholly or in part.

Appeals to Commission

(2) Every decision of the Commission under the provisions of this section shall be final and shall not be subject to further appeal.

**25.** Every member of the Commission shall have such and like protection and privilege in the case of any action or suit brought against him for any act done or omitted to be done in the *bona fide* execution of his duties as is by law given to acts done or words spoken by a judge in the exercise of his judicial office.

Protection of members of Commission

**26.** No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission, or any member or officer thereof, and the Government, or the President, or a Minister, or any officer of the Government, or between any member or officer of the Commission and its chairman, or between any member or officer of the Commission, in exercise of, or in connexion with the exercise of, the functions of the Commission, unless the President consents in writing to the disclosure.

Privilege for communications of Commission

**27.** (1) For the performance of its functions the Commission may –

Powers of Commission

- (a) inspect local authority offices; and
- (b) examine documents, books or other records belonging to a local authority;
- (c) obtain information and advice from any local government officer or any public officer; and
- (d) do all such things, including the taking of evidence on oath and the administration of oaths, as are incidental or conducive to the exercise of the Commission's functions.

(2) The Commission may require any local government officer or any public officer, whose evidence appears to be material to the determination of any inquiry or investigation conducted by the Commission, to attend at such time and place as may be specified by the Commission to give evidence or produce any document, book or other record, official or belonging to a local authority, in his possession or under his control which relates to a matter in question at any inquiry or investigation.

(3) No local government officer or public officer shall be compelled to answer a question the answer to which may render him liable to prosecution on a criminal charge.

(4) Nothing in this section shall be construed as requiring any person to disclose information or produce any document, book or other record, the disclosure or production of which –

(a) is prohibited or restricted under any written law; or

(b) is certified in writing by the Minister to be contrary to the public interest.

Annual  
report

**28.** The Commission shall as soon as possible after the end of each calendar year submit a report to the Minister in respect of the discharge of its functions during that year and the Minister shall lay every such report before the National Assembly.

Legal  
representa-  
tion

**29.** Any person appearing before the Commission shall be entitled to be represented by a legal practitioner admitted to practise in Botswana.

## PART VIII

### MISCELLANEOUS

Regulations

**30.** The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of the foregoing such regulations may provide for –

(a) the procedure for making applications for the creation and abolition of local government offices;

(b) the procedure for notifying and advertising vacancies in the local government service;

(c) the procedure for the engagement and re-engagement of local government officers on contract;

(d) the procedure for taking disciplinary action against local government officers;

(e) the punishments that may be awarded as a result of disciplinary proceedings;

(f) the setting up of bodies for the purposes of consultation between Government and officers of the local government service and the procedure and functions of such bodies;

(g) anything in this Act which is to be or may be prescribed.

Amendment  
of Law No.  
33 of 1965

**31.** (1) The Local Government (District Councils) Law, 1965 (hereinafter called the principal Law), is amended by substituting for section 26 (1) thereof the following new subsection –

“(1) Subject to the provisions of the Unified Local Government Service Act, 1973, a council shall appoint such employees as it may deem necessary.”

(2) The principal Law is amended by deleting sections 27 and 28.

(3) Section 52 of the principal Law is amended by substituting for the words "Any employee of a council", which appear therein, the words "Any local government officer employed under the provisions of the Unified Local Government Service Act, 1973, and any employee of a council".

**32.** (1) Regulation 2 of the Town Council Regulations, 1966, hereinafter called the principal Regulations, is amended by deleting the definition of "Local Government Service Commission", which appears therein.

Amendment  
of Legal  
Notice No. 37  
of 1966

(2) Regulation 26 of the principal Regulations is amended by substituting for paragraph (1) thereof the following new paragraph –

"(1) Subject to the provisions of the Unified Local Government Service Act, 1973, a council shall appoint such employees as it may deem necessary."

(3) The principal Regulations are amended by deleting regulation 27.

(4) Regulation 28 of the principal Regulations is amended by deleting the expression "whether on the advice of the Local Government Service Commission or not", which appears therein.

(5) Regulation 99 of the principal Regulations is amended by substituting for the words "Any employee of a council", which appear therein, the words "Any local government officer employed under the provisions of the Unified Local Government Service Act, 1973, and any employee of a council".

**33.** The Local Government Service Commission Regulations, 1966, are revoked.

Revocation of  
Statutory  
Instrument  
No. 52 of  
1966

**34.** Section 2 of the Local Councils Employees Provident Fund Law, 1966, is amended by substituting for the definition of employee which appears therein the following new definition –

Amendment  
of Law No.  
38 of 1966

"employee" means any person employed in the local government service under the provisions of the Unified Local Government Service Act, 1973, and any person other than a teacher employed by a local council but does not include a member of a local council;

#### SCHEDULE

##### CLASSES OF PERSONS NOT SUBJECT TO THE ACT

1. Teachers
2. Industrial workers
3. Part-time employees other than senior officers.

Passed by the National Assembly this 30th day of May, 1973.

I.P. GONTSE,  
*Clerk of the National Assembly.*