

Statutory Instrument No. 70 of 1974

UNIFIED LOCAL GOVERNMENT SERVICE ACT, 1973
(13 of 1973)

UNIFIED LOCAL GOVERNMENT SERVICE REGULATIONS, 1974

(Published on the 17th May, 1974)

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IN EXERCISE of the powers conferred by section 30 of the Unified Local Government Service Act, 1973, the Minister of Local Government and Lands hereby makes the following Regulations –

PART I. Preliminary

- Citation **1.** These Regulations may be cited as the Unified Local Government Service Regulations, 1974.
- Inter-pretation **2.** In these Regulations, unless the context otherwise requires —
“General Orders” means General Orders governing the unified local government service;
“local government office” means an office of emolument in the unified local government service.

PART II. Constitution and Abolition of Offices

- Notification of local government offices
Abolition of local government office
- 3.** The Establishment Secretary shall publish once in every year a list of all local government offices.
- 4.** Application for the constitution of any local government office shall be made to the Establishment Secretary by a principal officer and every such application shall state —
(a) the title of the office;
(b) the salary or salary scale to be attached to such office;
(c) whether the proposed office is to be permanent;
(d) the reason why the constitution of such office is considered desirable;
(e) the qualifications which will be required of any holder of the proposed office and the duties which any such holder will be required to perform;
(f) whether or not funds are available;
(g) such other matters as the Establishment Secretary may require.
- Constitution of local government office
- 5.** Application for the abolition of any local government office shall be made to the Establishment Secretary by the principal officer and every such application shall state —
(a) the reason why it is considered desirable that the office should be abolished;
(b) such other matters as the Establishment Secretary may require.

PART III. Appointment and Termination of Appointments

- Notification of vacancies
- 6.** (1) Where a vacancy occurs or it is expected that a vacancy will occur in any local government office, the principal officer shall notify the Establishment Secretary and shall state whether, in his opinion, the vacancy should be filled by the promotion of an officer serving in the local authority in which the office exists.
- (2) Where a principal officer recommends the promotion or transfer of an officer serving in the local authority in which the office exists, he shall furnish to the Establishment Secretary the record of service in Botswana

of the officer recommended, together with the names of any officers in the local authority who would be superceded and his reasons for recommending their supercession.

(3) Where the principal officer is unable to recommend the promotion or transfer of an officer serving in the local authority to fill the vacancy, he shall report to the Establishment Secretary the names of the officers serving in the cadre or grade from which promotion or transfer would normally be made, together with his reasons for not recommending those officers for promotion or transfer.

7. (1) Subject to the provisions of subregulation (2) and to any directions of the Minister, applications for appointment to vacant offices shall be invited by public advertisement in Botswana in such manner as may be determined by the Establishment Secretary. Advertisement

(2) A vacant office shall not be advertised —

(a) where the Establishment Secretary is satisfied that the office should be filled by the promotion, or re-engagement of an officer serving in the local authority in which the vacancy exists or the continued employment of an officer on temporary terms; or

(b) where the Establishment Secretary is satisfied that there is no reasonable likelihood of any application being received in response to advertisements in Botswana from a candidate who is qualified and suitable.

8. As between officers having the same degree of preference, qualifications and experience, proven merit and suitability for the post in question will be given greater weight than seniority. Selection of candidates

9. If it appears to the Establishment Secretary that there is reason why an officer who may be called upon to retire under the provisions of section 12 (3) of the Act should be called upon to retire, the Establishment Secretary shall advise the officer that his compulsory retirement is under consideration and ask him if he wishes to make any representation of a personal nature on the matter. The principal officer shall forward such representations, if any, together with his own observations, to the Establishment Secretary who will decide whether such officer should be called upon to retire. Termination of appointment other than on disciplinary grounds

10. Any case not covered by this Part of these Regulations shall be dealt with in accordance with such directions as may, from time to time, be given by the Minister. Cases not covered by this Part

PART IV. *Discipline*

11. Where disciplinary proceedings are to be or may be taken against any officer the appropriate procedure shall be commenced as soon as possible. Disciplinary control to be prompt

12. If a preliminary investigation indicates that an offence against any law may have been committed by an officer, the Establishment Secretary shall, unless it is clear that police action has been or is about to be taken, consult the Attorney-General and obtain his opinion as to whether a Criminal proceedings against an officer

prosecution should be instituted against the officer. In consulting the Attorney-General the Establishment Secretary shall provide a detailed statement of the case, as it is known to him.

Salary of an officer during interdiction

13. (1) When reporting to the Establishment Secretary under section 19 of the Act, a principal officer shall supply the Establishment Secretary with particulars of the officer's salary, his financial commitments (including current deductions from salary) and the size of his family.

(2) If the Establishment Secretary decides that an officer shall be interdicted the principal officer shall inform the officer in writing of his interdiction, and of the amount of salary which will be paid to him during the period of interdiction.

Salary following conviction

14. (1) Where a local government officer's emoluments have ceased by virtue of the provisions of section 20 of the Act, the principal officer concerned shall notify the Establishment Secretary of the date of cessation of emoluments.

(2) On receiving a notification under subsection (1) the Establishment Secretary shall, as soon as may be, decide whether any emoluments shall be paid to such officer during the period of his imprisonment and pending the taking of disciplinary proceedings against him and shall notify the principal officer accordingly.

Criminal proceedings, action required by police and judicial officers

15. (1) The police officer commanding a district shall inform the principal officer concerned immediately he knows that an officer is to be prosecuted, copying the communication to the Establishment Secretary: such police officer shall provide the officer's full name, his appointment and the nature of the alleged offence.

(2) A judicial officer who tries any criminal proceedings against an officer shall, immediately the proceedings are completed, inform the Establishment Secretary of the outcome and as soon as possible thereafter send three certified copies of the case record to the Establishment Secretary.

Preliminary investigation

16. (1) Where a principal officer becomes aware of allegations of misconduct against an officer he shall, if he is of the opinion that disciplinary proceedings may be necessary, instruct some other officer even if employed by another local authority or a public officer, of a rank not less senior than the officer against whom the allegations of misconduct have been made, to hold a preliminary investigation into such allegations.

(2) If following the preliminary investigation the principal officer is of the opinion that there is a *prima facie* case against the officer concerned he shall prepare a list of charges against the officer in such form as may be prescribed in General Orders, with such modifications as may be necessary in any particular case. The list of charges shall be sent to the officer against who they are made and he shall be informed that he has such period, being not less than 14 days, as appears reasonable in all the circumstances to the principal officer, to reply in explanation of the charges against him.

17. (1) If the officer does not reply to the charges made against him under regulation 16 within the time specified or if he fails to exculpate himself from the charges to the satisfaction of the principal officer, the latter shall then prepare and report the case to the Establishment Secretary.

Reporting cases to the Establishment Secretary

(2) In reporting the case to the Establishment Secretary the principal officer shall forward —

- (a) a copy of the preliminary investigation made under regulation 16;
- (b) a copy of the charges preferred against the officer; and
- (c) a copy of the officer's statement, if any, made in reply to the charges.

18. (1) When the Establishment Secretary has received the report of a preliminary investigation he may —

Action on receiving report by Establishment Secretary

- (a) call for additional statements or other information relative to the charges preferred against the local government officer as he deems necessary;
- (b) decide to take no further action in the matter and inform the local government officer concerned;
- (c) refer the matter to a Committee of Enquiry which he shall appoint; or
- (d) conduct an enquiry himself.

(2) A Committee of Enquiry shall consist of three officers who shall be of a rank not less senior than that of the officer in respect of whom the enquiry is being held and may be public officers.

(3) A Committee of Enquiry appointed by the Establishment Secretary shall enquire into the charges which have been laid and shall at the conclusion of the enquiry advise the Establishment Secretary whether or not in its opinion all or any of the charges of misconduct have been proved:

Provided that where the Establishment Secretary has not delegated his powers under section 6 (2) of the Act, he shall conduct all disciplinary procedures under regulations 16 and 17.

19. Upon the conclusion of any enquiry the Establishment Secretary shall inform the officer in respect of whom the enquiry was held as to which, if any, of the charges of misconduct have been proved and of the punishment, if any, which he has awarded.

Finding of enquiry

20. In cases where a principal officer is the appointing authority by virtue of a delegation made under section 6 (2) of the Act, the powers and duties vested in principal officers under regulations 16 (2) and 17 (1) shall be vested in the officer holding the preliminary investigation.

Where principal officer is responsible officer

21. If criminal proceedings have been instituted against an officer in any court, no disciplinary proceedings shall be instituted against such officer on any grounds involved in the criminal charges pending the result of the criminal proceedings.

Disciplinary action while criminal proceedings are pending

Disciplinary action following criminal conviction	<p>22. (1) If an officer has been convicted of a criminal offence the appointing authority may accept without further proof that the officer committed the offence of which he was convicted upon production before him of a certified copy of the record of the criminal proceedings.</p> <p>(2) If an officer has been convicted of a criminal offence for which he has been sentenced to a term of imprisonment without the option of a fine, the appointing authority may, upon production of a certified copy of the criminal proceedings, dismiss the officer without instituting disciplinary proceedings against him.</p> <p>(3) No officer shall be dismissed where an appeal against the conviction has been entered pending the outcome of such appeal.</p>
Disciplinary action after acquittal of criminal charges	<p>23. Where an officer has been acquitted of a criminal charge no charge of misconduct in any disciplinary proceedings shall be laid against him which raises substantially the same issues on which he was acquitted by the court, unless it appears from the record that the court had no occasion to enquire into the truth or falsity of any evidence tendered in respect of such charge relevant to the truth or falsity of the allegations against the officer.</p>
Punishments	<p>24. The following punishments may be inflicted upon a local government officer —</p> <ul style="list-style-type: none"> (a) dismissal, that is, termination of appointment with forfeiture of all retirement benefits and all other benefits accruing as a result of local government service in accordance with the provisions of any law for the time being in force; (b) compulsory retirement or termination of appointment; (c) reduction in rank; (d) reduction in salary; (e) stoppage of increment for a specified period; (f) withholding of increment until certain conditions are fulfilled; or (g) in the case of an officer who is the holder of a non-permanent post, suspension from duty with consequent loss of pay and allowances for a period not exceeding 14 days.
Reprimands or warnings	<p>25. Nothing in this Part shall prevent an appointing authority from issuing a reprimand or a warning to any officer directly subordinate to him.</p>
Absence without leave	<p>26. Without prejudice to the taking of disciplinary proceedings in respect of any absence from duty without leave or reasonable cause, where a local government officer is absent from duty without leave the appointing authority may order that the salary of such officer shall be withheld in respect of any period during which such officer was absent without leave.</p>
Documentary evidence	<p>27. An officer in respect of whom an enquiry is to be held shall be entitled to receive a copy of any documentary evidence which will be relied on for the purpose of the enquiry or be allowed access to it.</p>

28. If witnesses are examined at any enquiry the officer shall be given an opportunity of being present throughout and of putting questions to the witnesses on his own behalf. Witnesses

PART IV. Miscellaneous

29. Any officer who submits any matter for the consideration of the Establishment Secretary, or any other appointing authority shall ensure that all relevant documents and papers are made available to such officer who may require the production of any further documents or information relevant to the matter under consideration. Production of relevant documents, etc.

30. All correspondence for the Establishment Secretary shall be addressed to the Establishment Secretary. Correspondence

31. The Establishment Secretary may authorize such reviews or investigations into the local government service staff complements and gradings and manpower utilization as he deems necessary for the better administration of local government's personnel policies. The Establishment Secretary may accept, reject or modify the recommendations contained in staff inspection reports and determine the extent to which such reports are made available for consideration outside his department. Power to review staff complements and gradings

32. The Commission shall, if so requested by the Establishment Secretary, conduct written examinations as provided for in approved Schemes of Service, if any, and for other purposes of the local government service. Examinations

33. Any case not covered by these Regulations shall be reported to the Establishment Secretary who shall determine the procedure to be adopted and shall be guided by General Orders. Cases not otherwise provided for

MADE this 7th day of May, 1974.

B.G. MAKOBLE,
Permanent Secretary,
Ministry of Local Government and Lands.