

# UNIFIED TEACHING SERVICE ACT, 1975

No. 26



of 1975

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**An Act to provide for the establishment of a Unified Teaching Service which shall be the sole employer of certain teachers and for matters connected therewith and incidental thereto**

*Date of Assent: 5.8.75*

*Date of Commencement: On Notice.*

ENACTED by the Parliament of Botswana.

PART I. *Preliminary*

Short title  
and com-  
mencement

1. This Act may be cited as the Unified Teaching Service Act, 1975, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Inter-  
pretation

2. In this Act, unless the context otherwise requires, --  
“aided post” means any post in a private school in respect of which, in the opinion of the Minister, the salary attached to the post should be paid, wholly or partly, from public funds and the holder of the post should be employed by the Unified Teaching Service;

- “appointing authority” means the Director and includes any person to whom he has delegated his powers under section 7;
- “Commission” means the Teaching Service Commission established under section 28;
- “contract terms”, in relation to a teacher, means a qualified teacher engaged on contract;
- “Director” means the Director of the Unified Teaching Service appointed under section 6;
- “Government school” means a school managed by the Ministry of Education;
- “local authority school” means a registered school managed by a local education authority and in respect of which the Minister has approved the number and grade of teachers to be employed therein;
- “permanent terms”, in relation to a teacher, means a qualified teacher appointed on permanent terms, whether on probation or not, and admitted to the Non-Pensionable Teachers’ Provident Fund established under the Non-Pensionable Teachers’ Provident Fund Act, or an unqualified teacher Cap. 62:02 who, having taught in Botswana for such period as may be prescribed, has been deemed suitable for employment on permanent terms and admission to the Non-Pensionable Teachers’ Provident Fund;
- “post” means any post established in a school for the purpose of enabling a person to impart regular or part-time instruction to pupils or any post of responsibility in a school to which is attached a higher salary scale or allowance or any other post established under this Act;
- “private school” means a registered school which is not a Government or a local authority school;
- “qualified teacher” means a teacher who possesses such teaching qualifications as may be prescribed;
- “registered school” means a school registered under the Education Cap. 58:01 Act;
- “teacher” means any person employed in a post in a Government or local authority school or in an aided post or in any other post either on a full or part-time basis and possessing such qualifications as may be prescribed;
- “temporary terms”, in relation to a teacher, means not employed on permanent or contract terms;
- “unqualified teacher” means a teacher who does not possess the prescribed teaching qualifications but who possesses such educational qualifications as may be approved under the Act.

## PART II. *Application*

Application

**3.** (1) The provisions of this Act shall apply to all teachers employed in Government and local authority schools and in aided posts in private schools, including any such in respect of which a local education authority is the employer.

(2) The Minister may, by order published in the Gazette, prescribe other classes of teachers to which the provisions of this Act shall apply.

(3) Nothing in this Act shall be construed as applying to a public officer, volunteer or technical assistance teacher.

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

Contracts of service

**4.** (1) Subject to the provisions of subsection (2), on and after the commencement of this Act, any contract of service between a teacher and Government, or a local education authority or an employer of a teacher whose salary is paid from public funds, and provided such contract was made in terms of the Botswana Teaching Service Act, shall be deemed to have been made under this Act and between such teacher and the Director, and the provisions of this Act shall apply to any such contract:

Cap. 62:01

Provided that no such teacher shall be subject to any such 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.

(2) A qualified teacher who is not a citizen of Botswana and who was employed prior to the commencement of this Act may elect to convert to contract or temporary terms, and, in the case of a teacher who does not so elect, the provisions regarding the termination of his appointment as set out in his contract of service shall, notwithstanding the provisions of this Act, continue to apply.

## PART III. *Administration and Appointments to the Unified Teaching Service*

Permanent Secretary, Ministry of Education

**5.** (1) The Permanent Secretary to the Minister for the time being responsible for education shall be the head of the Unified Teaching Service and shall have vested in him the administration of the Unified Teaching Service.

(2) The Permanent Secretary to the Minister for the time being responsible for education may define, and incorporate in a code of regulations, terms and conditions of service and rules of conduct for teachers, which shall be complied with by all teachers.

Director, Unified Teaching Service

**6.** There shall be a Director of the Unified Teaching Service, who shall be a public officer, who shall, subject to the directions of the Permanent Secretary to the Minister for the time being responsible for education, be responsible for the following matters, namely,--

- (a) the assessment and approval of teaching qualifications;
- (b) conditions of appointment and terms of service;
- (c) recruitment, posting, transfer and promotion of teachers;
- (d) administration, structure and assessment of salaries;
- (e) administration of the code of regulations;
- (f) staff complements and gradings;
- (g) discipline, administrative arrangements for in-service training, and welfare;
- (h) localization and staff development programmes;
- (i) the approval and administration of schemes of service;
- (j) staff inspections and organization and methods;
- (k) preparation of estimates relating to the administration of the Unified Teaching Service;
- (l) allowances and the policy with regard to gratuities;
- (m) personnel statistics;
- (n) liaison with local authorities and school managers in connexion with the employment of Unified Teaching Service teachers;
- (o) liaison with any professional body representing teachers;
- (p) such other matters as may be prescribed.

**7.** (1) The power to appoint teachers in the Unified Teaching Service, to exercise disciplinary control over and to remove from office in the Unified Teaching Service, shall rest in the Director in accordance with this Act and in any regulations made thereunder: Terms and conditions of Unified Teaching Service

Provided that in respect of heads of post primary schools such powers shall only be exercised with the consent of the Minister.

(2) The Director may, with the consent of the Minister, by directions in writing, delegate any of his powers under this section in respect of the employment of teachers on temporary terms to any public officer in the Ministry for the time being responsible for education not below the rank of Assistant Education Officer, but, notwithstanding any such delegation, the Director may vary or set aside any decision made by such public officer in the exercise of his delegated powers.

**8.** (1) In selecting candidates for appointment an appointing authority shall have regard primarily for the efficiency of the Unified Teaching Service. Criterion for appointment

(2) Where any post in the Unified Teaching Service is vacant any citizen of Botswana shall, subject to satisfying any scheme of service laying down the qualifications for any such post, be given priority when an appointment to any such post is being considered.

(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 Unified Teaching Service so to do.

Disquali-  
fication for  
appointment

**9.** (1) No person who has been convicted of an offence involving moral turpitude or who has been dismissed from any teaching post or from the public service or from the local government service shall be appointed to a post in the Unified Teaching Service without the approval of the Minister.

(2) No person shall be appointed to any post in the Unified Teaching Service unless he holds such qualifications as have been approved for appointment to that post.

(3) No person who is not a citizen of Botswana shall be appointed to any post in the Unified Teaching Service unless the appointing authority is satisfied that no citizen of Botswana is qualified and suitable for appointment.

(4) No person who is not a citizen of Botswana shall be appointed to any post (other than on transfer or promotion) on permanent terms.

Appointment  
of citizens  
of certain  
countries

**10.** The appointment of any person to any post shall be deemed to be approved if such person is a citizen of a country prescribed by the President as a country whose citizens may be recruited into the Unified Teaching Service without reference to him.

Probation

**11.** (1) Where any teacher is appointed to any post in the Unified Teaching Service (other than on transfer or promotion) on permanent terms he shall first serve a probationary period of 2 years.

(2) Where any teacher who is required to serve on probation under this section has previously been employed as a teacher, the period or any part thereof of such service may, in the discretion of the appointing authority, be regarded as service on probation for the purposes of subsection (1).

(3) The period of probation may, at the discretion of the appointing authority, be extended for a period of not more than 12 months to afford the teacher —

- (a) the opportunity of improvement in any respect in which his work or conduct have been unsatisfactory; or
- (b) the further opportunity to pass any examinations which are a condition precedent of appointment.

(4) Where the appointing authority is of the opinion that a probationary period shall be extended or terminated it shall, before extending or terminating such appointment, advise the teacher in writing of its intention and inform such teacher of his right to make representations thereon within 21 days.

(5) Notwithstanding anything contained in this section, but subject to the giving of notice as prescribed in subsection (4), an appointing authority may terminate a probationary appointment at any time without assigning reasons therefor.

(6) The termination or non-continuation of a probationary appointment shall not be a dismissal or removal from a teaching post and the decision of the appointing authority to terminate, extend or not to confirm a probationary appointment shall be final, and no appeal shall lie therefrom to any other person or body.

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

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

**12.** (1) Where a teacher is, on or after the coming into operation of this Act, promoted to a post to which is attached a higher salary scale, the first 6 months (exclusive of any period of leave) from the effective date of the promotion shall be a probationary period. Promotion

(2) Where the appointing authority is of the opinion that such a probationary period shall be extended or terminated, the provisions of subsections (2) to (7) inclusive of section 11 shall apply *mutatis mutandis* to such probationary period.

(3) Where such a probationary period is terminated in accordance with the provisions of this section the teacher shall revert to his previous grade.

**13.** (1) Where any teacher is appointed to any post on promotion the effective date of his promotion to such post shall, subject to the provisions of subsection (2), be determined by the appointing authority. Date of promotion

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

- (a) the date upon which the vacancy occurred;
- (b) the date upon which the teacher became qualified for promotion; or
- (c) the date upon which the teacher assumed the functions of the post:

Provided that the appointing authority 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 mentioned in paragraphs (a) and (b).

Responsibility allowance

**14.** (1) Where any teacher has been or is appointed to a post to which is attached a responsibility allowance or is awarded any responsibility allowance appropriate to the duties he has or is being called upon to perform, the payment of any such allowance shall not be construed as conferring upon the teacher any permanent addition to his salary.

(2) The payment of any such allowance may be terminated in the discretion of the appointing authority when it is considered in the interests of the Unified Teaching Service that the teacher should be relieved of the duties or special responsibilities which entitled him to draw such allowance.

(3) The effective date for the payment of any responsibility allowance shall be calculated in accordance with the provisions of section 13.

#### PART IV. *Termination of Appointments and Retirements*

Termination of contract

**15.** If it appears to the appointing authority that the appointment of a teacher serving on contract terms should be terminated in accordance with the provisions of his contract (otherwise than by dismissal), the appointing authority shall advise the teacher in writing that the termination of his contract is under consideration and inform him of his right to make representations thereon within 21 days; on the expiry of the period of 21 days and after considering any representations made by the teacher, the appointing authority shall decide whether or not the contract shall be terminated.

Retirement of teachers

**16.** (1) In this section "teacher" means a teacher admitted to permanent terms.

(2) Subject to the provisions of this section, a teacher shall retire from the Unified Teaching Service on attaining the age of 60 years but a female teacher may retire on marriage.

(3) Subject to the provisions of this section, a teacher who has attained the age of 45 years may, in the discretion of the appointing authority and in the interests of the service, be retired from the Unified Teaching Service.

(4) Subject to the provisions of subsection (3), a teacher shall have the right at any time before or after attaining the age of 45 years to give written notification to the appointing authority of his wish to be retired from the Unified Teaching Service, and, if he gives such notification, he shall —

- (a) if such notification is given at least 3 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 3 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 interests of the Unified Teaching Service to retain a teacher in his post beyond the age at which under this section he is required to retire, such teacher 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 Unified Teaching Service post, a teacher holding the same shall, unless transferred by the appointing authority to some other Unified Teaching Service post, be deemed to have retired.

**17.** (1) Where it appears to the appointing authority that a teacher is incapable by reasons of any infirmity of mind or body of discharging the functions of his post, it may, and shall if the teacher so requests, call upon such teacher 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 teacher is incapable as aforesaid.

Retirement  
on medical  
grounds

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

#### PART V. *Teachers.*

**18.** It shall be the duty of every teacher to aid and assist the school to which he is attached, posted or transferred, to carry out and obey all lawful orders of those persons having lawful authority either over or within that school and to exercise the functions of his post impartially, efficiently and without delay in accordance with the standards of professional conduct expected from teachers so as to promote the education and welfare of the pupils, and the general efficiency of the school.

General  
duties of  
teachers

**19.** Unless it is provided in the terms of his appointment or in any other written law, —

Whole time  
of teacher  
at disposal  
of school

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

- No additional fee for services      **20.** 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 teacher for the performance of any service for the Unified Teaching Service or his school unless specifically authorized by law or by the terms of his appointment or by the Director.
- Salary and allowances not to be ceded      **21.** Subject to the provisions of any written law, no teacher shall, except in the case of payments for the maintenance of his spouse or children, without the written approval of the Director, 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      **22.** Subject to the provisions of any written law, no teacher shall, —  
     (a) without the permission of the Director, 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 teacher may publish in his own name other matter relating to subjects of professional or general interest;  
     (b) whether on duty or on leave of absence, and except with the permission of the Director, allow himself to be interviewed on questions of or connected with any matter affecting or relating to the management or administration of a school;  
     (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 a teacher otherwise than in the proper discharge of his duties as authorized by law or competent authority.
- Interdiction      **23.** (1) In this section “supervisory officer” means an appointing authority or any professional officer of the Ministry of Education of the rank of Assistant Education Officer or above having responsibility for supervising schools.  
     (2) If a supervisory officer considers that disciplinary proceedings should be instituted against a teacher and is of the opinion that such teacher should be interdicted from the performance of his duties pending the taking of proceedings against him, the supervisory officer may suspend such teacher from the performance of his duties for a period not exceeding 30 days and shall make a report of such suspension and the reasons therefor to the Director, who may interdict such teacher 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 teacher during the period of suspension and interdiction.

(3) If a supervisory officer, on becoming aware that criminal proceedings have been instituted against a teacher, is of the opinion that such teacher should be interdicted from the performance of his duties, the supervisory officer may interdict such teacher from the performance of his duties for a period of 60 days and shall immediately report such interdiction and the reasons therefor to the Director; on receipt of such report the Director 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 teacher during the period of interdiction.

(4) If the Director, on becoming aware that criminal proceedings have been or are about to be instituted against a teacher or considers that disciplinary proceedings should be instituted against a teacher, is of the opinion that such teacher should be interdicted from the performance of his duties pending the taking of proceedings against him, the Director may interdict such teacher 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 teacher during the period of interdiction.

(5) If, as a result of any disciplinary proceedings, a teacher is awarded a punishment less than dismissal, the Director shall decide what proportion of salary withheld, if any, shall be paid to such teacher:

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

(6) If a teacher has been interdicted from the performance of his duties because criminal proceedings have been or were about to be instituted against him, and, after a period of interdiction exceeding 6 months, such criminal proceedings have not been brought to an end, the Director may terminate the interdiction and such teacher may be reinstated in the Unified Teaching Service pending the completion of such criminal proceedings.

**24.** A teacher 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 Director as to whether or not any salary shall be paid to such teacher during the period of imprisonment and pending the taking of any disciplinary proceedings against him or his dismissal. Withholding  
of salary

**25.** Where it appears that any person, who is or was at the relevant time a teacher, has been responsible for a loss or misuse of any monies placed in his charge, whether temporarily or otherwise, in the performance of his duties, the Director shall, notwithstanding any criminal or disciplinary proceedings which have been or may be Surcharge

instituted against such teacher, request the Permanent Secretary to the Minister for the time being responsible for finance to surcharge such teacher in accordance with the provisions of the Finance and Audit Act.

Cap. 54:01

#### PART VI. *Offences and Penalties*

Influencing  
the Director  
or an appoint-  
ing authority

**26.** 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 Director or an appointing authority shall be guilty of an offence and liable to a fine of R500 and to imprisonment for 6 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 Director or an appointing authority.

Supplying  
false  
information

**27.** Any person who, in connexion with the exercise of his functions by the Director or an appointing authority, wilfully gives to the Director or an appointing authority any information which he knows to be false or does not believe to be true or which he knows to be misleading by reason of the omission of any material particular, shall be guilty of an offence and liable to a fine of R500 and to imprisonment for 6 months.

#### PART VII. *Teaching Service Commission*

Teaching  
Service  
Commission

**28.** (1) There shall be a Teaching 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 constituted under the Constitution, and the provisions of section 109 of the Constitution shall apply *mutatis mutandis* to the Teaching Service Commission.

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

Appeals to  
Commission

**29.** (1) Any teacher who has been removed from office or is subjected to any other punishment by the exercise of any power conferred on the Director or an appointing authority may appeal to the Commission who may dismiss such appeal or allow it wholly or in part.

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

Protection  
of members of  
Commission

**30.** 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.

**31.** 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  
communi-  
cations of  
Commission

**32.** (1) For the performance of its functions the Commission may, where and when material to an appeal, —

Powers of  
Commission

- (a) inspect offices and school premises;
- (b) examine documents, books or other records;
- (c) obtain information and advice from any person or persons; 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 person, whose evidence appears to be material to the determination of any enquiry 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 in his possession or under his control which relates to the matter in question at any enquiry or investigation.

(3) No person 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.

**33.** 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.

Annual  
report

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

Legal re-  
presentation

PART VIII. *Miscellaneous*

Regulations

**35.** 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 posts in local authority and private schools;
- (b) the procedure for notifying and advertising vacancies in the Unified Teaching Service;
- (c) the procedure for the engagement and re-engagement of teachers on contract;
- (d) the procedure for controlling admissions to teacher training courses, and for the employment of persons who complete such courses;
- (e) the procedure for taking disciplinary action against teachers;
- (f) the punishments that may be awarded as a result of disciplinary proceedings;
- (g) the setting up of a body for the purpose of consultation between Government and teachers in the Unified Teaching Service, and the procedure and functions of such body;
- (h) anything in this Act which is to be or may be prescribed.

Amendment  
of Cap. 58:01

**36.** The Education Act is amended —

- (a) by repealing section 5 thereof;
- (b) in section 25 (1) (a) thereof, by substituting for the words “Botswana Teaching Service”, which appear therein, the words “Unified Teaching Service”.

Repeal of  
Cap. 62:01

**37.** The Botswana Teaching Service Act is hereby repealed.

Passed by the National Assembly this 21st day of July, 1975.

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