

FOREIGN ENLISTMENT ACT, 1980

No. 44



of 1980

ARRANGEMENT OF SECTIONS

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An Act to control the enlistment in the military service of a country other than Botswana of citizens of Botswana and other persons in possession of Botswana passports

Date of Assent: 11.12.80.

Date of Commencement: 19.12.80.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Foreign Enlistment Act, 1980.
2. In this Act, unless the context otherwise requires, —
 - “aircraft” includes every type of flying or airborne craft;
 - “citizen” means a citizen of Botswana;
 - “military service” includes service in a police, army, naval or air force and any employment whatever in connexion with any military operation, and employment in secret service work or in an underground movement or as a secret agent;
 - “passport” includes every form of travel document issued on behalf of Botswana;

Short title
Inter-
pretation

“person in charge” includes the driver, pilot and any other person in command, and the owner, of a vehicle or aircraft.

Illegal enlistment

3. (1) A citizen of Botswana who, within or outside Botswana, accepts or agrees to accept, without first obtaining in writing the permission of the President, a commission or engagement in the military service of any other country, or induces any person, whether a citizen or not, to accept or agree to accept a commission or engagement in the military service of any other country, shall be guilty of an offence.

(2) A person who is not a citizen of Botswana but to whom a Botswana passport has been issued shall not, while he —

- (a) is in possession of the passport;
- (b) has any claim to the possession of the passport; or
- (c) otherwise claims or enjoys the protection of Botswana by reason of the issue of the passport,

accept or agree to accept, without first obtaining in writing the permission of the President, a commission or engagement in the military service of any other country, or induce any person, whether a citizen or not, to accept or agree to accept a commission or engagement in the military service of any other country.

(3) Any person who contravenes any of the provisions of subsection (2) shall be guilty of an offence.

Leaving Botswana for enlistment

4. A citizen of Botswana who leaves Botswana or boards any vehicle or aircraft wherever situate for the purpose of accepting or agreement to accept, without first obtaining in writing the permission of the President, a commission or engagement in the military service of any other country, or induces any person, whether a citizen or not, to leave Botswana or to board any vehicle or aircraft wherever situate for the purpose of accepting or agreement to accept a commission or engagement in the military service of any other country, shall be guilty of an offence.

Inducing enlistment by misrepresentation

5. A person who induces, under a misrepresentation or false representation as to the service in which that person is to be engaged, with intent that the person may accept or agree to accept a commission or engagement in the military service of any other country, any person, whether a citizen or not, to leave Botswana or to board any vehicle or aircraft within Botswana shall be guilty of an offence.

Taking on board illegally enlisted persons

6. (1) A person in charge of any vehicle or aircraft who, without first obtaining in writing the permission of the President, knowingly takes on board or engages to take on board or has on board such vehicle or aircraft while it is within Botswana any of the following persons (in this Act referred to as “illegally enlisted persons”) —

- (a) a citizen who, within or outside Botswana, has, without the permission in writing of the President, accepted or agreed to accept a commission or engagement in the military service of any other country;

- (b) a citizen who, without the permission in writing of the President, is about to leave Botswana with intent to accept a commission or engagement in the military service of any other country; or
 - (c) a citizen who has been induced to embark, under a misrepresentation or false representation as to the service in which he is to be engaged with the intent that such person may accept or agree to accept a commission or engagement in the military service of any other country,
- shall be guilty of an offence.

(2) On the discovery of an offence under subsection (1), the illegally enlisted persons shall immediately be taken from the vehicle or aircraft and shall not be allowed to return to it.

(3) A vehicle or aircraft involved in the commission of an offence under this Act shall be detained until the trial and conviction or acquittal of the person in charge and until any penalty imposed has been paid, and in any case where such person is imprisoned the vehicle or aircraft may be forfeited to the State.

7. A person within Botswana who, without first obtaining in writing the permission of the President, prepares or fits out a military expedition to proceed against any other country, or is engaged in such preparation or fitting out, or assists therewith or is employed in any capacity in such an expedition shall be guilty of an offence. Illegal expeditions

8. An offence against this Act may be described, in an indictment or other document relating to such offence, as having been committed at the place where it was wholly or partly committed or as having been committed within the jurisdiction of the court by which the offender is to be tried. Description of offence

9. (1) Any person who contravenes any provision of this Act shall be guilty of an offence and on conviction thereof shall be liable to a term of imprisonment not exceeding 10 years. Penalties

(2) A prosecution for an offence under this Act shall not be brought without the consent in writing of the Attorney-General.

10. A customs officer not below the rank of collector, a police officer or a member of the Botswana Defence Force may seize and detain a vehicle or aircraft liable to be seized and detained in pursuance of the provisions of this Act. Seizure

11. The Minister may make regulations for the purpose of carrying into effect the provisions of this Act. Regulations

12. Sections 61 and 62 of the Penal Code are hereby repealed. Repeal of sections 61 and 62 of Cap. 08:01

PASSED by the National Assembly this 4th day of December, 1980.

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