

# ELECTORAL (AMENDMENT) ACT, 2003



No. 2

of 2004

## ARRANGEMENT OF SECTIONS

### SECTION

1. Short title
2. Amendment of section 7 of Cap 02:09<sup>1</sup>
3. Amendment of section 10 of the Act
4. Amendment of the Act
5. Amendment of section 13 of the Act
6. Amendment of section 17 of the Act
7. Amendment of section 18 of the Act
8. Amendment of the Act
9. Amendment of section 36 of the Act
10. Amendment of section 52 of the Act
11. Amendment of the Act
12. Amendment of section 54 of the Act
13. Amendment of section 61 of the Act
14. Amendment of section 67 of the Act
15. Amendment of section 70 of the Act
16. Amendment of the Act
17. Amendment of section 89 of the Act
18. Amendment of the Act
19. Amendment of the Act
20. Amendment of Schedule to the Act

### **An Act to amend the Electoral Act**

*Date of Commencement:* On publication

*Date of Assent:* 22nd January, 2004

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Electoral (Amendment) Act, 2003.
2. The Electoral Act (hereinafter referred to as “the Act”) is amended in section 7 thereof by substituting, for subsection (3) thereof, the following new subsection —  
“(3) During a general registration period in any designated polling district, the Secretary shall cause copies of the relevant sections of the existing rolls to be made available for inspection by the public at the office of the principal registration officer, and at such other places as may be determined by the principal registration officer.”

Short title  
Amendment of  
section 7 of  
Cap. 02:07

Amendment of section 10 of the Act

**3. The Act is amended in section 10 thereof —**

**(a) by substituting, for subsection (4) thereof, the following new subsection —**

“(4) If an application for registration is made at any time other than a general registration period or when the Secretary has not appointed other places for registration under section 8 in respect of the constituency concerned, the registration officer shall determine whether or not the applicant is entitled to registration in respect of that polling station, and, if satisfied that he or she is, shall —

**(a) complete a voter’s registration record card in Form A in relation to the applicant;**

**(b) require the applicant to make the declaration set out in that Form,**

**and shall register the applicant as a voter in respect of that polling station by completing a voter’s registration card in Form B in relation to the applicant, and giving forthwith, to the applicant, the said voter’s registration card”;** and

**(b) by inserting, immediately after subsection (4) thereof, the following new subsection —**

“(4A) A registration officer shall not register any applicant who does not produce his or her national identity card at the time of applying for registration as a voter.”

Amendment of the Act

**4. The Act is amended by substituting, for section 11 thereof, the following new section —**

“Enquiries by registration officer

**11. For the purpose of satisfying himself or herself with regard to any matter, or for the purposes of determining any matter relating to any application for registration, a registration officer may make such enquiry as he or she considers necessary.”**

Amendment of section 13 of the Act

**5. The Act is amended in section 13 thereof by substituting, for paragraph (a) thereof, the following new paragraph —**

“(a) state the surname, other names, sex, postal address, house number or plot number (where practicable), national identity card number of every voter named therein, and the serial number of the voter’s registration card given to him or her.”

Amendment of section 17 of the Act

**6. The Act is amended in section 17 thereof by substituting, for subsection (2) thereof, the following new subsection —**

“(2) Notice of any such appeal shall be in Form F and shall be delivered to the principal registration officer for the constituency where the applicant applied within a period of seven days after the rejection of the application, together with a deposit of P10.00.”

Amendment of section 18 of the Act

**7. The Act is amended in section 18 thereof by substituting, for subsection (2) thereof, the following new subsection —**

“(2) An objection shall be made in writing in Form G, and shall be delivered to the principal registration officer for the constituency together with a deposit of P10.00 within 21 days in the case of the supplementary roll, and 42 days in the case of the general roll, of —

- (a) the date of publication under section 14, of the roll to which it relates; or
- (b) the date on which notice of an insertion is given in pursuance of section 27 where the objection relates to the name of the voter inserted in a roll in pursuance of section 25 or 26 (a).”

**8.** The Act is amended by substituting, for section 29 thereof, the following new section —

“Issue of duplicate voter’s registration card

29. Where a voter loses his or her voter’s registration card, or the card is destroyed, any registration officer, on being satisfied as to such loss or destruction, may issue a duplicate voter’s registration card to such person:

Provided that no duplicate voter’s registration card shall be issued on any day fixed for polling at the constituency, polling district or polling station at which the voter is registered to vote.”

Amendment of the Act

**9.** The Act is amended in section 36 thereof by substituting, for subsection (1) thereof, the following new subsection —

“(1) No nomination will be valid unless the candidate shall —

- (a) before his or her nomination paper is delivered to the returning officer, deposit or cause to be deposited in any convenient Government revenue office the sum of P500.00 in cash, in the case of election to the National Assembly, or P100.00 in cash, in the case of election to a council, and, at the time of delivery of the nomination papers, produce or cause to be produced to the returning officer the official receipt for that sum; or
- (b) at the time of delivery of the nomination paper, deposit or cause to be deposited with the returning officer the sum of P500.00 in cash, in the case of election to the National Assembly, or P100.00 in cash, in the case of election to a council.”

Amendment of section 36 of the Act

**10.** The Act is amended in section 52 thereof by —

(a) substituting, for paragraph 1(c) thereof, the following new paragraph —

“(c) one or more polling booths in which voters may handle their ballot papers in secrecy;” and

(b) deleting subsection (2) thereof.

Amendment of section 52 of the Act

**11.** The Act is amended by substituting, for section 53 thereof, the following new section —

Amendment of the Act

“Ballot boxes 53. (1) Every ballot box shall be provided with a lock or other device for securing it when closed, and shall be so constructed that ballot papers can be put therein when it is closed but cannot be removed therefrom once it has been secured in terms of subsection 2.

(2) Immediately before the commencement of voting, the presiding officer at each polling station shall show each ballot box, empty, to such persons as may lawfully be present so that they may see that it is empty, before placing it in position, close and secure it in such manner as to prevent its contents from being tampered with, and shall keep it so closed and secured.”

Amendment  
of section 54  
of the Act

12. The Act is amended in section 54 thereof by —

(a) substituting, for paragraph (b)(iii) thereof, the following new subparagraph —

“(iii) that such voter has not become disqualified from voting, shall deliver, to the voter, a ballot paper.”, and

(b) deleting the proviso to paragraph (b) thereof.

Amendment  
of section 61  
of the Act

13. The Act is amended in section 61 thereof by —

(a) inserting, immediately after subsection (4) thereof, the following new subsections —

“(4A) The provisions of subsections (1) to (4) of this section shall apply to such other personnel as may be on duty at a polling station.

(4B) Polling officers, police officers and any other personnel on duty at a polling station shall also be permitted to vote for the council candidates of their choice.”; and

(b) substituting, for paragraph (a) of subsection (6) thereof, the following new paragraph —

“(a) place all the ballot papers containing the votes of each constituency in a separate packet and close that packet in such manner as to prevent its contents from being tampered with and nothing can be inserted therein.”

Amendment  
of section 67  
of the Act

14. The Act is amended in section 67 thereof by substituting, for subsection 3 thereof, the following new subsection —

“(3) Every unopened ballot box shall be secured by the presiding officer in such manner that its contents cannot be tampered with and nothing can be inserted therein.”

Amendment  
of section 70  
of the Act

15. The Act is amended in section 70 thereof by —

(a) substituting, for subsection (1) thereof, the following new subsection —

“(1) The returning officer shall, as any ballot box is received from a polling station, in the presence of any candidate or counting agent who wishes to be present, proceed to verify the ballot paper accounts of that polling station by opening the sealed packet containing the unused, spoilt and cancelled ballot papers in it and the total number of ballot papers found in the ballot box for that polling station.”; and

(b) by substituting, for subsection (4) thereof, the following new subsection —

“(4) When the procedures set out in subsections (1), (2) and (3) have been completed in respect of each polling station in a constituency, the returning officer shall mix together all the ballot papers found in the ballot boxes for that constituency and shall then count the votes in the manner set out in section 71.”

Amendment  
of the Act

16. The Act is amended by substituting, for section 81 thereof, the following new section —

“Maximum of election expenses 81. The election expenses of any candidate shall not exceed P50 000.00.”

17. The Act is amended in section 89 thereof by —

Amendment  
of section 89  
of the Act

(a) substituting, for subsection (1) thereof, the following new subsection —

“(1) The return and any accompanying document shall be kept at the office of the returning officer or at some convenient place appointed by him or her, and shall at all reasonable times during the six months following their receipt by the returning officer, be open to inspection by any person.”; and

(b) inserting, immediately after subsection (1) thereof, the following new subsection —

“(1A) The returning officer shall, if so requested by any person during the period referred to in subsection (1), supply copies of the return and any accompanying document, or any part thereof, at the price of P20.00 for every such copy or part thereof supplied.”

18. The Act is amended by substituting, for section 142 thereof, the following new section —

Amendment  
of the Act

“Defacement of notices 142. Any person who, without lawful authority, destroys, mutilates, defaces or removes any notice which is exhibited under the authority of this Act or any document which is made available for inspection in accordance with the provisions of this Act shall be guilty of an offence and liable to a fine not exceeding P200.00, or to a term of imprisonment not exceeding one month, or to both.”

19. The Act is amended by substituting, for section 154 thereof, the following new section —

Amendment  
of the Act

“Application of Act to council elections 154. (1) This Act shall have effect in relation to council elections as it has in relation to elections conducted under it, and consequently the provisions of this Act shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring the provisions of the Act into conformity with the circumstances of council elections.

(2) Notwithstanding the generality of the provisions of subsection (1), the Minister of Local Government shall, for the purposes of an election to a council, or of a by-election to fill a vacancy therein caused by death, resignation or otherwise, under his or her hand, issue an instrument, addressed to the returning officer of each polling district for which a member is to be returned, fixing —

- (a) the place and day at and on which, and the hours between which, the returning officer will receive nominations of candidates for election; and
- (b) the day for the taking of any poll which may become necessary.

(2) The day fixed under subsection 2(a) shall not be earlier than 14 days after the day on which the instrument is issued.

(3) The day fixed under subsection (2) (b) shall not be earlier than 21 days after the day fixed under paragraph (a) of the said subsection (2).

(4) Every instrument shall be in Form MA in the Schedule and shall be forwarded to the Secretary to the Electoral Commission for transmission to the returning officer to whom it is addressed.

(5) As soon as practicable after an instrument has been issued, the Secretary to the Electoral Commission shall give notice thereof in the Gazette, specifying in such notice the various matters fixed in pursuance of subsection (2) (a) and (b).

(6) Upon receipt of an instrument, the returning officer shall proceed to hold an election in the manner provided in this Act, and shall give and publish notice thereof throughout the polling district in such manner as he or she thinks fit and shall cause a notice in Form NA in the Schedule to be posted in such places as he considers desirable.”

Amendment  
of Schedule to  
the Act

**20.** The Act is amended in the Schedule thereto by inserting, therein, the following new forms —

**“BOTSWANA ELECTIONS  
ELECTORAL ACT  
(Cap 02:09)  
(section 154)**

**Form MA  
ELECTION INSTRUMENT**

BY  
THE MINISTER OF LOCAL GOVERNMENT

To: The Returning Officer

.....Polling District

WHEREAS by section 154 of the Electoral Act (Cap:02:09), it is provided that for the purpose of an election to a District Council, a City or Town Council or of a by-election to fill a vacancy therein caused by death, resignation or otherwise, the Minister of Local Government shall issue an election instrument under his or her hand, addressed to the returning officer of each polling district for which a member is to be returned;

<sup>3</sup> AND WHEREAS it is desirable that an election instrument should be issued for a general election;

<sup>4</sup> AND WHEREAS the seat of ..... the Member for the ..... Polling District has become vacant in consequence of .....

NOW THEREFORE, I, ....., the Minister of Local Government, do hereby direct that you, the said returning officer, shall receive the nomination of candidates for election in the aforesaid polling district between the hours of ..... to ..... and ..... to ..... at ..... on the ..... day of ..... 20<sup>\*</sup> at ..... and that any poll that may become necessary shall be taken on the ..... day of ..... 20.....; and do further direct that when a candidate has been duly elected you do endorse this election instrument with the name of that candidate and return it to the Secretary, according to law.

GIVEN under my hand at ..... this ..... day of ..... 20.....

.....  
*Minister for Local Government*

.....  
(Name of unopposed or successful candidate)

has been duly elected as member for the ..... Polling District.

Date .....  
*Returning Officer.*

<sup>3</sup> To be included in writ for general election  
<sup>4</sup> To be included in writ for by-election

**BOTSWANA ELECTIONS  
ELECTORAL ACT  
(Cap:02:09)  
(section 154)**

**Form NA  
NOTICE OF ISSUE OF ELECTION INSTRUMENT**

..... Polling District

Notice is hereby given that I, the Minister of Local Government, having issued an instrument for the election of a member for the..... Polling District,

will on the ..... day of ..... 20.....

between the hours .....and.....  
proceed to the nomination of candidates and, if there is no contest, to the election of a member for the polling district.

2. Each candidate must be nominated on a separate nomination paper. Forms of nomination may be obtained free of charge during office hours at the office of  
.....  
.....

3. Every nomination must be proposed and seconded and supported by seven other persons and the names of such proposer, seconder and supporters must appear on the election roll of the polling district for which the candidate seeks election.

4. The consent of the candidate to stand for election must be endorsed on the nomination paper.

5. Every candidate must before his or her nomination paper is delivered to me, deposit or cause to be deposited in any convenient Government revenue office, the sum of P100.00 in cash, and must at the time of delivery of his or her nomination paper, deposit or cause to be deposited with me the sum of P100.00 in cash, and no nomination shall be valid unless the said deposit has been made and, in the case of a deposit made at a Government revenue office, the receipt therefor produced to me.

6. Nomination papers must be delivered to me between the hours of .....  
and .....on the ..... day of .....20.....  
at .....

7. If more than one candidate is validly nominated, polls will be taken between the hours of ..... and ..... on the ..... day of ..... 20.....

Date .....

.....

**Returning Officer**

.....

**Polling District"**

**PASSED by the National Assembly this 10th day of December, 2003.**

**A. MATLHAKU,**  
*Clerk of the National Assembly.*