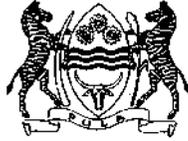


JUDICIAL SERVICES ACT, 2014

No. 21



of 2014

ARRANGEMENT OF SECTIONS

SECTION

PART I – Preliminary

1. Short title and commencement
2. Interpretation

PART II – Remuneration and Gratuity of President of the Court of Appeal, Justices of Appeal, Chief Justice and Judges of the High Court

3. Remuneration of President of the Court of Appeal and Justices of Appeal
4. Remuneration of Chief Justice
5. Remuneration of Judge of the High Court
6. Accrual and payment of gratuity
7. Gratuity to be exempt from income tax

PART III – Conditions of Appointment of Judges of the High Court, etc. and Tenure of Office of Acting Judges of the High Court

8. Conditions of appointment of Judges of the High Court, etc.
9. Tenure of office of acting Judges of the High Court

PART IV – Remuneration and Conditions of Service of Registrars, Magistrates and Masters

10. Remuneration and conditions of service of Registrars, magistrates and Masters

PART V – Judicial Service Commission

11. Functions of the Judicial Service Commission
12. Appointment of other committees and delegation of powers

PART VI – Miscellaneous Provisions

13. Regulations
14. Repeal of Cap. 04:03
15. Savings

An Act to provide for the consolidation of provisions relating to the judicature in respect of the offices and salaries and allowances of the President of the Court of Appeal and Justices of Appeal Judges, the Chief Justice and High Court Judges, the conditions of appointment and tenure of office of judges and the remuneration and conditions of service of Registrars and magistrates; and for matters incidental thereto.

Date of Assent: 27.08.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — Preliminary

Short title and commencement	1. This Act may be cited as the Judicial Services Act, 2014, and shall come into operation on such date as the Minister may, by Order published in the <i>Gazette</i> , appoint.
Interpretation	2. In this Act, unless the context otherwise requires — “judicial service” means service as — (a) President of the Court of Appeal or a Justice of Appeal; (b) Chief Justice or judge of the High Court; (c) a Registrar; and (d) a magistrate; “Judicial Service Commission” means the Judicial Service Commission established under section 103 (1) of the Constitution; “magistrate” means a magistrate as defined under section 2 of the Magistrates’ Courts Act; “Master” means the Master of the High Court appointed under section 4 of the Administration of Estates Act, and includes an Assistant Master; “Registrar” means the Registrar of the High Court and Registrar of the Court of Appeal, and includes a Deputy Registrar and an Assistant Registrar; and “tour of service” means a period of either two years or three years, as the case may be, from the date beginning with a judge’s assumption of office for the tour in question.
Cap. 04:04	
Cap. 31:01	

**PART II — Remuneration and Gratuity of President of the Court
of Appeal, Justices of Appeal, Chief Justice and Judges
of the High Court**

3. (1) There shall be paid to a resident President of the Court of Appeal —

- (a) a salary at the rate of P589,342.10 a year; and
- (b) an entertainment allowance at the rate of P13,166.40 a year.

(2) There shall be paid to a resident Justice of Appeal —

- (a) a salary at the rate of P564,231.03 a year; and
- (b) an entertainment allowance at the rate of P12,604.80 a year.

(3) There shall be paid to a resident President of the Court of Appeal or a resident Justice of Appeal whose service is not by virtue of any law pensionable, a gratuity determined in accordance with the provisions of section 6.

(4) There shall be paid to a non-resident President of the Court of Appeal, in addition to the amounts specified in subsection (5), an allowance at the rate of P29,536 a year.

(5) There shall be paid to a non-resident Justice of Appeal —

- (a) a fee of P7,605.52 in respect of every session of the Court of Appeal attended by the Justice of Appeal;
- (b) a fee of P6,341.50 for each day necessarily occupied by the Justice of Appeal in travelling to the seat of the Court, attending the session of the Court, and returning home after its conclusion; and
- (c) a subsistence allowance of P369.20 per day, or the cost of any hotel accommodation necessarily incurred (whichever is the greater) in respect of each day necessarily occupied in the manner specified in paragraph (b).

(6) For the purposes of this section —

- (a) “resident justice” means a Justice of Appeal appointed on pensionable terms or contract, whose conditions of service attract a salary; and
- (b) “non-resident justice” means a Justice of Appeal appointed on contract, whose conditions of service attract an allowance.

4. The Chief Justice shall be paid —

- (a) a salary at the rate of P614,453.17 a year;
- (b) in the case of a Chief Justice whose service is not by virtue of any law pensionable, a gratuity determined in accordance with the provisions of section 6; and
- (c) an entertainment allowance at the rate of P13,765.45 a year.

Remuneration
of President
of the Court
of Appeal and
Justices of
Appeal

Remuneration
of
Chief Justice

Remuneration of Judge of the High Court

5. A judge of the High Court shall be paid —
- (a) a salary at the rate of P539,010.70 a year; and
 - (b) in the case of a judge whose service is not by virtue of any law pensionable, a gratuity determined in accordance with the provisions of section 6.

Accrual and payment of gratuity

6. A gratuity under this Act shall accrue and be payable at the rate of 30 per cent of the salary payable in terms of sections 3 (3), 4 (b) and 5 (b), as the case may be —

- (a) in the case of a non-pensionable resident President of the Court of Appeal, a resident Justice of Appeal, a Chief Justice or a judge of the High Court, at the end of each period of two years of service, from the date beginning with such a judge's assumption of office; and
- (b) in the case of a non-resident President of the Court of Appeal, a resident Justice of Appeal, a Chief Justice or a judge of the High Court, at the end of each tour of service.

Gratuity to be exempt from income tax

7. Any gratuity payable under this Act shall be exempt from income tax.

PART III — Conditions of Appointment of Judges of the High Court, etc. and Tenure of Office of Acting Judges of the High Court

Conditions of appointment of Judges of the High Court, etc.

8. (1) A citizen judge of the High Court, a citizen President of the Court of Appeal or a citizen Justice of Appeal, including the Chief Justice, who qualifies for appointment on pensionable terms, by virtue of his or her age at the date of the judge's assumption of office, shall be so appointed.

(2) A citizen judge of the High Court, a citizen President of the Court of Appeal or a citizen Justice of Appeal, including the Chief Justice, who does not qualify for appointment in terms of subsection (1) shall be appointed with entitlement to gratuity.

(3) A non-citizen shall be appointed as a judge of the High Court, President of the Court of Appeal or Justice of Appeal on contract for a tour of service.

Tenure of office of acting Judges of the High Court

9. In accordance with the provisions of the proviso to section 96 (6) of the Constitution, a person appointed to act as a judge of the High Court shall vacate that office on attaining the age of 75 years.

PART IV — Remuneration and Conditions of Service of Registrars, Magistrates and Masters

Remuneration and conditions of service of Registrars, magistrates and Masters

10. (1) A Registrar, a magistrate and a Master shall be paid such salaries and allowances as shall be determined by the President and approved by Parliament, following periodic reviews of the salaries and allowances applicable in the public service.

(2) The conditions of service of a Registrar, a magistrate and a Master shall be as may be prescribed.

PART V – Judicial Service Commission

11. Subject to sections 103 and 104 of the Constitution, the functions of the Judicial Service Commission shall be to —

Functions of the Judicial Service Commission

- (a) make recommendations to the President regarding —
 - (i) the conditions of service of judges of the High Court, the President of the Court of Appeal, Justices of Appeal, Registrars, the Master and magistrates, and
 - (ii) any proposed reforms of the judicial service; and
- (b) consider and deal with any complaints regarding a judge of the High Court, the President of the Court of Appeal, a Justice of Appeal, Registrars, the Master or a magistrate.

12. The Judicial Service Commission may appoint any committees as it may consider necessary, and may delegate to them, any of its functions under this Act, subject to such conditions as it may specify.

Appointment of other committees and delegation of powers

PART VI – Miscellaneous Provisions

13. (1) The President may make regulations —

Regulations

- (a) for the better carrying out of the provisions of this Act; and
- (b) prescribing anything that under this Act requires to be prescribed.

(2) Regulations made in terms of subsection (1) may provide for any of the following —

- (a) the conditions of service of members of the judicial service;
- (b) the allowances payable to members of the Judicial Services Commission; and
- (c) any other matter leading to a more efficient judicial service.

14. The Judges (Miscellaneous Provisions) Act, hereby referred to as “the repealed Act”, is hereby repealed.

Repeal of Cap. 04:03

15. Any gratuity accrued under section 6 of the repealed Act, and any rights granted in relation to the exemption of income tax under section 8 of the repealed Act, shall continue as if accrued and granted under this Act.

Savings

PASSED by the National Assembly this 30th day of July, 2014.

BARBARAN. DITHAPO,
Clerk of the National Assembly.