

NATIONAL METEOROLOGICAL SERVICE ACT, 2014

No. 15



of 2014

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An Act to provide for the establishment of the National Meteorological Service; to provide for its powers and functions and to provide for related matters.

Date of Assent: 14.05.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

Short title and
Commencement

1. This Act may be cited as the National Meteorological Service Act, 2014, and shall come into operation on such date as the Minister may, by Order, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —
“commercial services” means any of the following —

- (a) the provision of specialised weather forecasting and climate information services;
- (b) the provision of aviation meteorological services;
- (c) weather and climate related publications;
- (d) meteorological services including advice to the legal and to the insurance industry;
- (e) contracted weather and climate-related research;
- (f) research to improve commercial services;
- (g) the dissemination of weather and climate information;
- (h) the manufacturing and selling of meteorological equipment to Government departments and users from the private sector, as well as the calibration, servicing, repairing and standardisation of equipment falling within the competence of the National Meteorological Service;
- (i) the provision of specialised services to the media; or
- (j) commercial services provided on an *ad hoc* basis to Government departments;

“Committee” means the Meteorological Licensing Committee established under section 5;

“Director” means the Director of the National Meteorological Service;

“forecast” means a statement of probable future weather or climate condition within a particular area over a certain time period;

“hydrological phenomena” means those limnological and oceanographical phenomena which are in close relation to the meteorological phenomena;

“member” means a member of the Committee and includes the Chairperson of the Committee;

“meteorological data” means any information that determines the state or conditions of the atmosphere as recorded by any meteorological instrument on earth;

- “meteorological instruments” means instruments, machines or devices which are used for the observation of meteorological, terrestrial and hydrological phenomena;
- “meteorological observation” means systematic observation and measurement of the atmospheric physical processes, phenomena and chemical properties in the atmosphere and surface layer by scientific properties in the atmosphere and surface layer by scientific and technological means;
- “meteorological phenomena” means phenomena in the atmosphere except the ionosphere;
- “meteorological service” means service rendered to economic and social activities relating to weather and climate;
- “public good service” means any of the following —
- (a) the gathering of meteorological observation data;
 - (b) the carrying out of those international obligations agreed under the World Meteorological Organisation (WMO) agreements, including the international distribution of data and acting as Regional Instruments Centre;
 - (c) the provision of other meteorological services and the representation of Government in the fulfillment of international obligations, where appropriate;
 - (d) the provision of weather and climate forecasting and warning services intended for the general benefit of the population and the safety of life and property;
 - (e) the provision of daily rainfall and maximum and minimum temperatures data to the general public;
 - (f) the custody of the national climatological databank;
 - (g) the operation of a national meteorological telecommunication network and computer infrastructure necessary to provide public good services;
 - (h) the maintenance of the national meteorological library;
 - (i) the provision of advice to Government regarding meteorological and climatological matters;
 - (j) the provision of meteorological and functional related training;
 - (k) the conducting of research focused on reducing the impact of weather-related natural disasters and on improving the quality of the public good services; or
 - (l) the provision of meteorological support for aviation and maritime search and rescue activities in accordance with international obligations of the Government;
- “Service” means the National Meteorological Services established by section 3 (1); and
- “warning” means a forecast to alert that a disaster is likely to take place.

PART II — *Establishment and Functions of the National
Meteorological Service*

Establishment
of Service

3. (1) There is hereby established a Service to be known as the National Meteorological Service.

(2) The Service shall be a public office, and accordingly the provisions of the Public Service Act shall apply to the Service and its officers.

Cap. 26:01

Powers and
functions of
Service

4. The functions of the Service shall be to —

(a) establish, operate and maintain a national network of meteorological observing stations designed to represent various climatic regions of the territory of Botswana and to satisfy the needs of various national development plans and activities;

(b) collect, process, analyse and archive all meteorological and climatological data from all parts of the country;

(c) provide public good service and commercial services;

(d) provide meteorological data and advice on meteorological matters to the general public, individual customers, specialised users and to various sectors for socio-economic development of the country and people's well-being;

(e) provide meteorological services to the military;

(f) provide, publish and disseminate weather forecasts, analysed meteorological and climatological data and products;

(g) be exclusively responsible for issuing of warning of adverse weather conditions such as severe storms, strong winds, heat waves and other weather conditions likely to endanger life, livelihood and property, including weather conditions likely to give rise to floods, drought, veld fires, pests and diseases and to provide advice concerning natural disaster preparedness and mitigation;

(h) be exclusively responsible for providing meteorological services, including weather forecasts, to the Civil Aviation Authority established under the Civil Aviation Act;

Cap. 71:04

(i) exchange meteorological and climatological data in accordance with international agreements or conventions to which Botswana is a party;

(j) calibrate instruments and equipment at any privately or publicly run meteorological service in order to ensure that acceptable national and World Meteorological Organisation standards are maintained especially where information generated from such services is for public consumption or commercial purposes;

(k) operate and maintain the national meteorological telecommunication system connected to the Global Telecommunication System (GTS) of the World Meteorological Organisation (WMO) and the joint telecommunications network of the International Civil Aviation Organisation (ICAO) and the Aeronautical Fixed Telecommunications Network (AFTN);

- (l) regulate the establishment and operation of any privately run meteorological service in order to ensure that acceptable national and World Meteorological Organisation standards are maintained especially where information generated from such service is for public consumption or commercial purposes;
- (m) to develop, update, publish and avail locally and to the conference of the Parties to the United Nations Framework Convention on Climate Change, a national inventory of anthropogenic emission by source and removals by sink of greenhouse gases not controlled under the Montreal Protocol on Substances that Deplete the Ozone layer;
- (n) formulate, implement and publish measures to mitigate climate change and measures to facilitate adequate adaptation to climate change;
- (o) prohibit the importation and control the use, movement and trading in ozone depleting substances controlled under the Montreal Protocol on substances that deplete the ozone layer;
- (p) ensure that Botswana complies with its obligations under the Montreal Protocol;
- (q) serve as a national focal point for —
 - (i) the World Meteorological Organisation (WMO),
 - (ii) the Vienna Convention on the protection of the ozone layer and Montreal Protocol on substances that deplete the ozone layer, and
 - (iii) the implementation of the United Nations Framework Convention on Climate Change and its conventions; and
- (r) provide technical and administrative support to the National Committee on Climate Change.

PART III – *Licensing Committee*

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| <p>5. (1) There is hereby established a Meteorological Licensing Committee.</p> <p>(2) The Permanent Secretary shall appoint members of the Meteorological Licensing Committee.</p> | <p>Establishment
of Committee</p> |
| <p>6. The Committee shall —</p> <ul style="list-style-type: none"> (a) issue licences specified under section 8; (b) keep a register specified under section 13, of all the licences it has issued; (c) monitor the operations of the licensed business; and (d) perform such other functions as may be conferred on it under this Act or regulations made under the Act. | <p>Functions of
the Committee</p> |
| <p>7. (1) The Committee shall consist of —</p> <ul style="list-style-type: none"> (a) the Director who shall be the Chairperson of the Committee; and (b) members from the National Meteorological technical staff. <p>(2) The Committee shall meet as often as it is expedient to discharge its functions.</p> | <p>Membership
of the
Committee</p> |

PART IV – *Licensing and Registration of Private Operators
of Meteorological Services*

Application
for licence

8. (1) No person shall provide such meteorological services, unless such person holds a licence issued under this Act.

(2) An application for a licence to provide meteorological services shall be –

- (a) made on such form as may be prescribed;
- (b) accompanied by such fee as may be prescribed; and
- (c) forwarded to the Committee through the Director.

(3) The Committee may, upon receipt of an application under subsection (2), issue to the applicant a licence to provide a meteorological service.

(4) A licence issued under subsection (3) shall be valid for such period as may be stipulated therein, and shall be subject to renewal within one month of its expiry.

(5) A licence issued under subsection (3) may be granted subject to such conditions and restrictions as the Committee may consider appropriate, which conditions may be endorsed on such licence.

(6) The Committee may, on written application by licensee, waive or vary any condition endorsed on his or her licence.

(7) Any person who provides a meteorological service without a licence commits an offence and is liable to a fine not exceeding P5 000 or to imprisonment for a term not exceeding one month, or to both, and for a second or subsequent offence to a fine not exceeding P10 000 or to imprisonment for a term not exceeding one year, or to both.

Revocation,
suspension
and
endorsement
of licence

9. (1) Where any person contravenes any provision of this Act or fails to comply with any requirement of the Committee under any provision of this Act, or where the Committee is satisfied that the conditions of any licence are not being adhered to, the Committee may, revoke, suspend or impose further conditions upon such licence.

(2) No revocation, suspension or imposition of further conditions upon a licence shall be made by the Committee until the person concerned has, by notice in writing, been given the opportunity, by the Committee, to rectify the contravention or failure, or to show cause within such time as may be specified from the date of such notice, why the licence should not be revoked, suspended or have further conditions imposed thereon.

Appeals
Committee

10. (1) The Minister shall appoint an Appeals Committee which shall consist of five members drawn from various backgrounds, at least one of whom shall be a meteorologist.

(2) The members of the Appeals Committee shall elect, from among their number, a Chairperson.

(3) A person aggrieved by the Committee's decision –

- (a) not to issue or renew a licence;
- (b) not to transfer a licence;
- (c) to suspend a licence; or
- (d) to revoke a licence,

may appeal, in writing, to the Appeals Committee within 30 days of notification of the decision.

11. (1) Where a member is present at a meeting of the Appeals Committee at which meeting a matter which is the subject of consideration is one in which he or she is directly or indirectly interested in a private capacity, the member shall, immediately upon the commencement of the meeting, disclose such interest and shall not take part in any consideration or discussion of, or vote on any question concerning that matter.

Disclosure of interest

(2) A disclosure of interest made in accordance with subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1) and a decision by the Appeals Committee is made benefiting such a member, such decision shall be void.

(4) A member who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one month, or to both.

12. (1) A member of the Appeals Committee shall observe and preserve the confidentiality of all matters coming before the Appeals Committee, and such confidentiality shall subsist even after the termination of their terms of office.

Confidentiality

(2) Any person to whom confidential information is revealed through working with the Appeals Committee shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one month, or to both.

13. (1) The Committee shall, after licensing a person to provide a meteorological service under section 8 (3), register such a person as an operator of a meteorological service.

Register to be kept

- (2) The Director shall remove from the register any person —
- (a) whose licence has been revoked or suspended under this Act; or
 - (b) who has requested that his or her name be removed from the register by virtue of having ceased to operate a meteorological service.

(3) The register under this section shall be open for inspection by members of the public.

PART V – *Miscellaneous*

Appointment
of inspectors

14. (1) The Minister may appoint officers of the Service as inspectors for the purpose of conducting inspections and gathering information from weather stations, whether it be in furtherance of an investigation carried out under this Act or for purposes of collecting meteorological data.

(2) An inspector may inspect the licensed premises at any time, and any person at such premises shall assist such inspector in the performance of his or her duties.

(3) Any person who obstructs or in any way prevents an inspector from conducting an inspection or from obtaining any information he or she requires commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one month, or to both.

Intellectual
property rights

15. (1) The Service retains the intellectual property rights on any data, meteorological and advisory services, computer programmes, inventions, discoveries and improvements generated by the Service in the fulfillment of its functions.

(2) Any meteorological service provided by the Service to a client or customer shall not be provided by that client or customer to a third party or be distributed without written consent of the Director.

(3) Any use of material by way of publication, including radio, television, or other medium, shall acknowledge the contribution of the Service.

Limitation of
liability

16. The Service is not liable for any damage, loss or injury sustained by any person as a result of his or her reliance on the meteorological information provided by the Service.

Offences and
penalties

17. (1) Any person who –

(a) forges a licence;

(b) forges any document for the purpose of obtaining a licence; or

(c) alters or erases any part of a licence or any entry lawfully made thereunder,

commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding one year, or to both.

(2) Any person who –

(a) publishes and distributes meteorological data without written consent of the Service or acknowledgement of the contribution of the Service; or

(b) refuses to submit meteorological data to the Service, commits an offence and is liable to a fine not exceeding P20 000 or to imprisonment for a term not exceeding two years, or to both.

(3) A person who contravenes any provision of the Regulations made under this Act commits an offence and liable to a fine not exceeding P20 000 or to imprisonment for a term not exceeding two years, or to both.

18. The Minister may make regulations providing for any matter which is required to be prescribed or 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 —

(a) prescribe —

- (i) the calibration of meteorological instruments and equipment at any privately run meteorological and climatological observatory station,
- (ii) the manner in which warnings are to be made,
- (iii) the manner in which meteorological information and data is to be displayed and kept,
- (iv) the manner in which data is to be submitted to the Service,
- (v) the installation of meteorological instruments,
- (vi) forms, fees and charges to be prescribed under this Act,
- (vii) for the control and prohibition of ozone depleting substances,
- (viii) for any matter considered necessary for the protection of the ozone layer,
- (ix) for cost recovery measures for providing commercial services, and
- (x) for the establishment of the Designated National Authority; and

(b) provide —

- (i) for the establishment and operation of privately run meteorological observatory stations,
- (ii) for the authorization of the use of new observing network elements, for example, stations, posts, equipment and closure of existing ones including the change of positions of these elements,
- (iii) for the protection of the meteorological observation stations situated on private land, and
- (iv) for the establishment of the National Committee on Climate Change.

19. The National Meteorological Service Act is hereby repealed.

Repeal
Act No. 5
of 2009

20. A person who at the commencement of this Act is operating a meteorological service shall bring such service in conformity with this Act within six months of the commencement of this Act.

Transitional
provisions

PASSED by the National Assembly this 8th day of April, 2014.

BARBARA N. DITHAPO,
Clerk of the National Assembly.