

POLICE (AMENDMENT) ACT, 2018

No. 20



of 2018

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An Act to amend the Police Act.

Date of Assent: 29.06.18

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Police (Amendment) Act, 2018, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Police Act (hereinafter referred to as “the Act”) is amended in section 2 by inserting, in their correct alphabetical order, the following new definitions —

Amendment of section 2 of Cap. 21:01

- ““appointment” includes recruitment, transfer, promotion, temporary appointment and acting appointment;
- “contract terms” means full time employment for a specified period of not less than 24 months;
- “Deputy Commissioner” means the persons appointed to hold the rank of Deputy Commissioner in terms of section 8 (1) (a);
- “part time terms” means employment for a specified period of time, which limits hours of work to less than the standard working hours for the particular type of employment in the Service;
- “permanent and pensionable” means full time employment for an unspecified period of time whose conditions of service attract the earning of a pension; and

Amendment of
section 6 of the
Act

“temporary terms” means full time employment for a specified period of time not exceeding 12 months.”.

3. Section 6 of the Act is amended by inserting immediately after subsection (1), the following new subsections —

“(1A) The Service —

- (a) shall in the interest of national security cooperate and work with other security organs in the discharge of its mandate; and
- (b) may enter into an agreement with any foreign law enforcement agency in the interest of national security, for the purpose of joint operations and sharing of information to enable cooperation in criminal matters.

(1B) Nothing in this section shall preclude the disclosure of information by the Service to a comparable body in a foreign country for the purpose of assisting it in exercising functions corresponding to those of the Service under this Act.

(1C) The Service shall regard, and deal with as confidential, all documents and information shared under this section.”.

Amendment of
section 8 of the
Act

4. Section 8 of the Act is amended by —

(a) substituting for paragraph (b) in subsection (1), the following the new paragraph —

“(b) the Commissioner shall, whether or not the person appointed is already a member of the Service, be the appointing authority for —

- (i) the ranks up to and including Senior Assistant Commissioner, and
- (ii) civilian posts in the Service, for designations up to and including Director level:

Provided that the first two years of the service of any person appointed to be a member of the Service, or such longer period as the appointing authority shall direct, shall be on probation and any service spent in a prescribed organisation may count towards this period.”; and

(b) substituting for subsection (2), the following new subsection —

“(2) A police officer appointed on probation shall, subject to this Act, be confirmed in his appointment, and admitted to the permanent and pensionable establishment of the Service only on the authority of the relevant appointing authority:

Provided that —

- (a) the Commissioner shall appoint fit and proper persons to the Service;
- (b) the appointment of civilian staff under subsection (1) (b) (ii) may be on contract or permanent and pensionable terms; and
- (c) the appointments made by the Commissioner under this Act may, subject to such terms as may be prescribed, be on —
 - (i) temporary terms, or
 - (ii) part time terms.”.

Amendment of
section 13 of the
Act

5. Section 13 of the Act is amended by —

(a) substituting for subsection (2), the following new subsections —

“(2) Where a police officer, who is suspended under subsection (1) is charged with a criminal or disciplinary offence before a court or a Board, the appointing authority shall interdict him.

(2A) An interdicted officer under subsection (2) shall receive such portion of his pay, not being less than one-half, as the appointing authority may determine, and if the proceedings against such officer —

- (a) do not result in his dismissal or any other punishment, he shall be entitled to the full amount of the pay he would have received had he not been interdicted; or
- (b) result in his dismissal or any other punishment, he shall forfeit the withheld portion of his salary.”; and
- (b) inserting immediately after paragraph (b) in subsection (3), the following new paragraph —
- “(c) forthwith surrender uniform and such equipment to the senior officer:”.
- 6.** The Act is amended in section 14 by inserting immediately after subsection (3), the following new subsection —
- “(4) A person whose appointment in the Service has been terminated shall forthwith handover any property of the Government issued to him during his employment in the Service to a senior officer.”
- 7.** Section 15 of the Act is amended in subsection (1) by substituting for paragraph (e), the following new paragraph —
- “(e) retire a police officer who marries or cohabits with a person —
- (i) with whom the appointing authority is satisfied it is not in the public interest for a police officer to associate closely, or
- (ii) of foreign nationality without prior permission from the Commissioner; or”.
- 8.** The Act is amended by inserting immediately after section 15, the following new section —
- “Compulsory retirement 15A.(1) A police officer appointed on permanent and pensionable terms shall retire from the Service on attaining the age of 62 years.
- (2) Notwithstanding subsection (1), the appointing authority may if he considers it to be in the interest of the Service, permit a police officer to remain in the Service for such period as the appointing authority may determine.”.
- 9.** The Act is amended by inserting immediately after the new section 15A, the following new section —
- “Voluntary retirement 15B.(1) A police officer appointed on permanent and pensionable terms may retire voluntarily from the Service on attaining the age of 45 years.
- (2) A police officer who retires voluntarily in terms of subsection (1) shall do so by giving the appointing authority written notification of his intention to retire, at least three months prior to the date on which he intends to retire, or by giving one month’s salary in *lieu* of notice.”.
- 10.** Section 21 of the Act is amended by deleting the word “not” appearing in subsection (1) therein.
- 11.** The Act is amended by inserting immediately after section 21, the following new section —
- “Offences committed outside Botswana 21A. (1) Where a police officer commits an act or omits to do an act outside Botswana, that constitutes a criminal or disciplinary offence under this Act, it shall be deemed for the purposes of this Act that such act or omission was committed in Botswana.

Amendment of section 14 of the Act

Amendment of section 15 of the Act

Insertion of section 15A in the Act

Insertion of section 15B in the Act

Amendment of section 21 of the Act

Insertion of section 21A in the Act

(2) For the purposes of subsection (1) it is immaterial whether the police officer was on duty or not.”

Amendment of
section 24 of
the Act

12. Section 24 of the Act is amended by —

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

“(1A) Notwithstanding subsection (1), a police officer shall not —

(a) publicly speak or demonstrate for or against any politician or political party;

(b) be an active member of, nor hold office in, any political party;

(c) publish his views on political matters;

(d) display or wear rosettes, colours, symbols, posters, placards or like articles of a political party;

(e) vote in primary elections of a political party; or

(f) carry out any other act or conduct whereby the public might reasonably be induced to associate or identify him with an organisation or movement of a political character.”;

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

“(1B) A person who engages in political campaigns or in activities of a political nature on a police camp commits an offence and shall on conviction be liable to a fine not exceeding P1000 or to imprisonment to a term not exceeding six months.”; and

(c) deleting subsection (4).

Amendment of
section 25 of
the Act

13. Section 25 of the Act is amended by substituting for the words “senior officer, station commander” wherever they appear in the section, the words “police officer of the rank of sergeant and above”.

Amendment of
section 27 of
the Act

14. Section 27 of the Act is amended by substituting for the word —

(a) “P2000” appearing therein, the word “P5000”;

(b) “P1500” appearing therein, the word “P3000”;

(c) “P1000” appearing therein, the word “P2000”;

(d) “P500” appearing therein, the word “P1000”; and

(e) “P250” appearing therein, the word “P500”.

Amendment of
section 29 of
the Act

15. Section 29 of the Act is amended by —

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

“(a) in the case of a Board of Enquiry I, to the Permanent Secretary to the President through the Commissioner;”

(b) substituting for paragraph (b) in subsection (1), the following new paragraph —

“(b) in the case of a Board of Enquiry II, Class I Board and Class II Board, to the Commissioner through the Branch Commander; and”;

(c) inserting immediately after paragraph (b) in subsection (1), the following new paragraph —

“(c) in the case of a Class III Board, the Branch Commander having direct authority over the officer against whom proceedings are conducted.”; and

- (d) substituting for subsection (4), the following new subsection —
“(4) Where any police officer is not found guilty and is acquitted by any Board, the record of the proceedings shall be forwarded to an appropriate review authority under subsections (1) and (2) and such authority may order a new trial if the authority is of the opinion that there was sufficient evidence to warrant a conviction:

Provided that in the case of a Class III Board, the Branch Commander shall recommend to the Commissioner that a new trial should be ordered.”.

16. Section 37 of the Act is amended in subsection (1) by inserting immediately after the word “Council” the following new proviso —
“Provided that —

Amendment of section 37 of the Act

Cap. 54:01 (a) notwithstanding section 47 (1) of the Public Finance Management Act, a police officer who is dissatisfied with any surcharge made against the police officer may, within a period of 14 days after the police officer is notified of the surcharge, appeal in writing to the Council; and

(b) in considering the appeal under paragraph (a), the provisions of the Public Finance Management Act shall, with the necessary modifications, apply to the Council.”.

17. The Act is amended by inserting immediately after section 61, the following new section —

Insertion of section 61A in the Act

“Restraint on release, communication and use of certain knowledge skills, ect. 61A. A police officer who engages in any activity that involves the release, communication, use of any knowledge or skills acquired by virtue of their employment in the Service that might result in injurious disclosures or bring about harm to the Service or interpreted in any way to be the release of classified information shall be guilty of an offence and liable to imprisonment for a term of fifteen years or any lesser punishment provided by this Act.”.

18. The Act is amended by inserting immediately after section 65, the following new section —

Insertion of section 65A in the Act

“Award of medals to members of Service 65A. The Commissioner may, subject to such guidelines as may be prescribed, award medals to members of the Service.”.

PASSED by the National Assembly this 12th day of April, 2018.

BARBARA N. DITHAPO,
Clerk of the National Assembly.