

POLICE ACT

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An Act to provide for the enrolment, discipline, control and administration of the Botswana Police Force; to provide for Special constables and for a Police Reserve and a Police Council; and for matters incidental thereto and connected therewith.

[Date of Commencement: 1st January, 1979]

PART I

Introduction and Interpretation (ss 1-2)

1. This Act may be cited as the Police Act.
2. In this Act, unless the context otherwise requires
"appointing authority" means an authority referred to in section 8;

"arms" includes firearms;
"Board" means a Board constituted in terms of section 26; "Commissioner" means the
"Commissioner of Police appointed by the
President in terms of section 112 of the Constitution;
"Force" means the Botswana Police Force as constituted under t' .
Act;
"inspectorate" means those police officers of the rank of inspector 0
sub-inspector; "junior officer" means a police officer of the rank of sergeant t or
below "pay" means the salary of a police officer in his substantive rank bu
does not include any allowances which have not been declared t<
be pensionable;
"police camp" means an area set aside for occupation by polio
officers;
"police council" means the Police Council established under section:
62;
"police officer" includes a special constable and a member of th
Reserve Force;
"review authority" means the appropriate review authority unde
section 29;
"senior officer" means any police officer of or above the rank 0
Assistant Superintendent.

PART II

Constitution and Administration (ss 3-7)

3. (1) The Force shall consist of the Commissioner of Police and: such numbers of those ranks specified in the Schedule as the President may from time to time direct, and police officers shall rank for seniority in the order shown therein.
(2) The President may, by order published in the *Gazette*, amen the Schedule.
4. (1) The Commissioner shall, subject to this Act and the general direction of the President, have the command, superintendence, di rection and control of the Force and shall be responsible to the President for maintaining peace and good order throughout Botswana.

(2) The Commissioner may, subject to this Act, issue or approve such orders for the general control and administration of the Force as he may deem necessary.

5. Any power conferred upon the Commissioner by this Act may, subject to the directions of the Commissioner, be exercised by the Deputy Commissioner.

6. (1) The Force shall be employed in and throughout Botswana to protect life and property, prevent and detect crime repress internal disturbances, maintain security and public tranquillity, apprehend offenders, bring offenders to justice, duly enforce all written laws with which it is directly charged and generally maintain the peace.

(2) For the performance of their duties under this Act police officers may carry arms.

(3) The Force shall perform such military duties within Botswana As may be required of It under the authority of the President as Commissioner-in-Chief of the Armed Forces.

(4) The control of the police in any place shall be vested in such police officer as may be appointed by the Commissioner to be in the charge thereof; such officer shall carry out the orders of the Commissioner in all matters subject to this Act.

7. The President may, in time of war or other emergency, employ the Force or part thereof in the defence of Botswana:

Provided that the Force or such part thereof when so employed shall remain, for the purpose of administration and discipline, under the command of the Commissioner.

PART III

Appointment, Attestation, Service and Discharge (ss 8-15)

8. (1) Subject to this Act

(a) the Permanent Secretary to the President shall, after consultation with the Commissioner, appoint fit and proper persons to hold the ranks of Deputy Commissioner, Senior Assistant Commissioner and Assistant Commissioner;

(b) the Commissioner shall appoint fit and proper persons to hold rank up to and including Senior Superintendent:

Provided that-

(i) all appointments, with the exception of those of constable, cadet appointments up to the rank of Assistant Superintendent, and, so far as senior officers' appointments are concerned, where the President in a particular case otherwise directs, shall be made from serving members of the Force;

(ii) the first two years of service of any person appointed to be a member of the Force, or such longer period as the appointing authority shall direct, shall be on probation.

- (e) retire a police officer who marries or cohabits with a person with whom the appointing authority is satisfied it is not in the public interest for a police officer to associate closely; or
- (f) retire a police officer who, being eligible to retire or to be retired, fails, in the opinion of the appointing authority, to maintain a satisfactory standard of efficiency.

(2) No police officer shall be retired under subsection (1) unless he is given such notice as may be prescribed of the intention so to retire him.

(3) A police officer who is convicted of a criminal offence and is sentenced to imprisonment, whether suspended or not, or, having been fined with imprisonment as an alternative, fails to pay the fine and is imprisoned, shall be dismissed from the Force.

PART IV

Powers, Duties and Privileges of Police Officers (ss 16-20)

16. (1) Every police officer shall be liable for duty at all times, and at any time may be detailed for duty in any part of Botswana, or any duty outside Botswana which the Commissioner may reasonably authorize or require.

(2) Every police officer shall be an officer of the court with responsibility for the prompt service or execution of any summons or warrant or process directed to him with regard to any criminal matter.

(3) It shall be the duty of every police officer at all times to perform and carry out the duties entrusted to him to the best of his ability, and at such times to comply with any general or specific orders which may be applicable to him.

(4) It shall be the duty of every police officer at all times to comply with any general or specific orders issued by the Commissioner or other competent police authority.

(5) It shall be the duty of every police officer at all times to protect life and property, prevent and detect crime, repress internal disturbance, maintain security and public tranquillity, apprehend offenders, bring offenders to justice, enforce all written laws with which the Force is directly charged and generally maintain the peace.

17. It shall be the duty of a police officer to lay information before a magistrate and to apply for a summons, search warrant or such other process as may by law be issued against any person in relation to any criminal matter.

18. (1) Any police officer may break into and enter upon any land, premises, vehicle or any place whatsoever being, or appearing to be on fire or in danger from fire, without the consent of any persons, and may do all acts or things deemed to be necessary for extinguishing such fire on any such land, premises, vehicle or other place or for protecting the same or other property or rescuing any person or property from fire.

(2) A police officer may call upon any able-bodied male adult person to assist in quelling a fire, or to give assistance at the scene of a fire.

(3) No action shall lie in any court of law against any police officer or any other person acting under the instructions of any police officer for the recovery of any damage caused

in exercising the powers conferred upon him by subsection (I) unless it is proved that such damage was caused *mala fide*.

(4) Any person who, without-reasonable excuse, refuses a call by any police officer to assist in quelling a fire, or to give assistance at the scene of a fire, shall be guilty of an offence, and be liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding 12 months, or to both.

19. No police officer shall, without the consent of the Commissioner, engage in any employment or business whatsoever, other than in accordance with his duties under this Act.

20. (I) Police officers shall be provided with free uniform and equipment; such uniform and equipment shall remain the property of the Government.

(2) When a person ceases to be a police officer he shall forthwith deliver up to the person appointed by the Commissioner for the purpose, or to the officer in charge of police where he was last stationed all accoutrements, uniform and other equipment; such uniform and equipment shall remain the property of the Government.

PART V

Discipline (ss 21-36)

21. (I) Any offence committed by a police officer in regard to which proceedings are not instituted in a criminal court may be dealt with in accordance with this Part.

(2) In proceedings before a Board under this Part, different offences may be charged in the alternative.

22. (I) Any police officer who

(a) takes part in a mutiny; or

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POLICE REGULATIONS

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Enlistment, Promotion, Acting Ranks and Seniority

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PART I

Preliminary (re g s 1-2)

1. These Regulations may be cited as the Police Regulations.
2. In these Regulations, unless the context otherwise requires
"appointing authority" means the appropriate authority in terms of section 8 of the Act;
"approved leave destination", in relation to a police officer, means the place within Botswana approved by the Commissioner as the officer's destination for the purpose of any official leave granted to the officer;
"Association" means the Botswana Police Association established by regulation 49(1);
"dependant", in relation to a deceased police officer, means a wife, dependant children and aged or disabled parents; "Force" does not include special Constables or the Police Reserve; "Force Standing Orders" means orders issued or approved by the Commissioner in terms of section 4(2) of the Act;
"last day of active duty", in relation to a police officer, means the day on the expiration of which he ceases to be a police officer:
Provided that, where that day falls on a day on which the officer is on leave, including travelling leave, in consequence of his departing the Force, the expression means the day immediately preceding the first day of that leave;

"minor child", in relation to a police officer, means an unmarried minor child of the officer who is financially dependent on the officer, and who is under the age of 21 years;

PART II

Enlistment, Promotion, Acting Ranks and Seniority (regs 3-5)

3. (1) No person shall be appointed a police officer unless he is over the Enlistment age of 18 years and under the age of 30 years:

Provided that

- (i) where the President has directed, in terms of paragraph (i) of the proviso to section 8(1) (b) of the Act, that a person who is not a serving member of the Force may be appointed a senior officer; or
- (ii) where the Commissioner is satisfied, in respect of a particular appointment to be made by him, that exceptional circumstances exist and that it is in the interest of the Force to do so, the President, or the Commissioner, as the case may be, may extend the upper age limit prescribed by this subregulation.

(2) At the end of a police officer's period of probationary service on first Appointment, the appointing authority shall immediately confirm the officer's appointment unless the appointment has been terminated under section 17 of the Act.

(3) Where he has any doubt as to the efficiency or acceptability of the behaviour of a police officer serving on probation on first appointment, the appointing officer may from time to time extend or further extend the period of 2 years' probationary service prescribed by paragraph (ii) of the proviso to section 8(1) (b) of the Act:

Provided that a police officer's period of probationary service on first appointment shall in no case exceed four years.

4. (1) Every promotion of a police officer shall be from the substantive appointment currently held by him to a superior rank specified in the Schedule to the Act.

(2) No police officer serving on probation on first appointment shall be promoted:

Provided that a Constable so serving may be promoted, in accordance with such conditions as the Commissioner may from time to time establish, to any one of the cadet ranks specified in the Schedule to the Act.

(3). Where the appointing authority so directs, an appointment to a superior rank on promotion shall be a probationary appointment for such period, not exceeding two years, as the appointing authority shall specify at the time of the appointment.