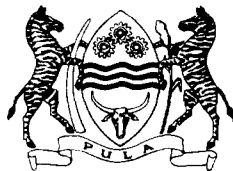


THE CONSTITUTION (AMENDMENT) ACT, 1970

No. 25



of 1970.

AN ACT TO AMEND THE CONSTITUTION OF BOTSWANA

Date of Assent: 2.7.1970

Date of Commencement: 10.7.1970

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Constitution (Amendment) Act, 1970.

Amendment of section 9 of the Constitution of Botswana

2. Subsection (2) of section 9 of the Constitution is amended by the insertion immediately after the words "mineral resources," appearing in paragraph (a) thereof of the words "for the purpose of any census,".

Amendment of section 25 of the Constitution of Botswana

3. Section 25 of the Constitution is amended by the addition immediately after subsection (3) thereof of a new subsection as follows –

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“(4) Where an Act of Parliament has prescribed circumstances in which a person shall not be entitled to registration as a citizen of Botswana a person shall not be so registered if at any time after his application any of the prescribed circumstances apply to him notwithstanding that such circumstances did not apply to him at the time of his application for registration.”.

Amendment of section 26 of the Constitution of Botswana

4. Subsection (1) of section 26 of the Constitution is amended by the deletion of the words "has been married to a person who was at any time" appearing therein and by the substitution therefor of the words "is or has been married to a person who is or was at any time".

Amendment of section 110 of the Constitution of Botswana

5. Subsection (11) of section 110 of the Constitution is amended by the deletion of the words “and subsection (8) of section 111” appearing therein.

Repeal and replacement of section 111 of the Constitution of Botswana

6. The Constitution is amended by the repeal of section 111 thereof and by the replacement thereof with a new section as follows –

“111(1) Subject to the provisions of this section and of section 112, 115 and 116 of the Constitution, power to appoint persons to hold or to act in any office in the public service, to exercise disciplinary control over persons holding or acting in such offices and to remove from such offices shall vest in such person or persons as may be prescribed by Act of Parliament.

(2) The provisions of this section shall not apply in relation to the following offices, that is to say:–

(a) the office of judge of the Court of Appeal or of the High Court;

(b) any office to which section 105 or 114 of the Constitution applies.

(3) Before any person or persons as may have been prescribed under the provisions of subsection (1) exercises power to appoint to or to act in any public office any person who holds or is acting in any office the power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of the Judicial Service Commission such person shall consult with the Judicial Service Commission.”.

Repeal and replacement of section 112 of the Constitution of Botswana

7. The Constitution is amended by the repeal of section 112 thereof and by the replacement thereof with a new section as follows –

“112 (1) Any person who has been removed from office or subjected to any other punishment by the exercise of any powers conferred on any person under the provisions of section 111 of this Constitution may appeal to the Public Service Commission who may dismiss such appeal or allow it wholly or in part.

(2) Subject to the provisions of subsection (3) every decision of the Public Service Commission under the provisions of this section or of section 113 of this Constitution shall be final.

(3) Notwithstanding anything contained in subsection (2) if the Public Service Commission dismisses an appeal or allows it in part only the person who appealed may appeal to the President.

(4) If any person appeals to the President in accordance with the Provisions of subsection (3) of this section the President shall either dismiss the appeal or shall order that it be heard by a tribunal appointed by the President, the Chairman of which shall be a person who holds or has held high judicial office or is qualified to be appointed as a judge of the High court.

(5) If the President appoints a tribunal to hear an appeal in accordance with subsection (4) of this section the tribunal shall hear the appeal and shall advise the President whether or not the appeal should be allowed either wholly or in part, and the President shall act in accordance with that advice.”

Amendment of section 113 of the Constitution of Botswana

8. Section 113 of the Constitution is amended by the deletion of subsection (4) thereof.

Repeal and replacement of section 114 of the Constitution of Botswana

9. The Constitution is amended by the repeal of section 114 thereof and of the replacement thereof with a new section as follows –

“114(1) The power to appoint a person to hold or act in offices to which this section applies and to remove from office and to exercise disciplinary control over persons holding or acting in such offices shall, subject to the provisions of section 115 and 116 of this Constitution, vest in the President.

(2) The offices to which this section applies are:–

- (a) Ambassador, High Commissioner or other principal representative of Botswana in any other country or accredited to any international organisation;
- (b) Secretary to the Cabinet;
- (c) Attorney General;
- (d) Permanent Secretary;
- (e) Commissioner of Police; and
- (f) any other superscale office (other than an office to which this Constitution makes specific provision for appointment or an office to which appointment is made under the provisions of section 105 of this Constitution) which may be prescribed by Act of Parliament”.

Existing officers

10. Every person who immediately before the coming into force of this Act holds or is acting in any public office to which appointment may be made under section 111 or 114 of the Constitution as amended by this Act shall be deemed to have been appointed as from the commencement of this Act to hold or act in that office.

Existing members of the Public Service Commission

11. Notwithstanding anything contained elsewhere in the Constitution the members of the Public Service Commission holding office immediately before the coming into force of this Act shall cease to hold office on the day before the coming into force of this Act but shall be eligible to be re-appointed.

Passed by the National Assembly this day, the 29th June, 1970.

G.T. MATENGE,
Clerk of the National Assembly

CERTIFICATE

I Albert Alfred Frank Lock, Speaker of the National Assembly, hereby certify that the final voting in the National Assembly on the Constitution (Amendment) Bill, 1970, took place not less than three months after the previous voting thereon in the National Assembly and that at such final voting the said Bill was supported by not less than two-thirds of all the members of the National Assembly.

A.A.F. LOCK
Speaker

Dated: 30th June, 1970.