

INTERNATIONAL FINANCIAL ORGANIZATIONS (AMENDMENT) ACT, 1992

No. 17



of 1992

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of Article XII of First Schedule to Cap 39:05
3. Amendment of Article XXVI of First Schedule to principal Act
4. Amendment of Schedule D of First Schedule to principal Act
5. Insertion of new Schedule L in First Schedule to principal Act

An Act to amend the International Financial Organizations Act

Date of Assent: 8th September, 1992.

Date of Commencement: 11th September, 1992.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the International Financial Organizations (Amendment) Act, 1992. Short title

2. Article XII of the First Schedule to the International Financial Organizations Act (hereinafter referred to as the principal Act) is hereby amended by inserting, immediately after section 3 (i) (iv) thereof, the following new subparagraph — Amendment
of Article XII
of First
Schedule to
Cap. 39:05

“(v) When the suspension of the voting rights of a member is terminated under Article XXVI, Section 2 (b), and the member is not entitled to appoint an Executive Director, the member may agree with all the members that have elected an Executive Director that the number of votes allotted to that member shall be cast by such Executive Director, provided that, if no regular election of Executive Directors has been conducted during the period of the suspension, the Executive Director in whose election the member had participated prior to the suspension, or his successor elected in accordance with paragraph 3 (c) (i) of Schedule L or with (f) above, shall be entitled to cast the number of votes allotted to the member. The member shall be deemed to have participated in the election of the Executive Director entitled to cast the number of votes allotted to the member.”

Amendment of
Article XXVI
of First
Schedule to
principal Act

3. Article XXVI of the First Schedule to the principal Act is amended by substituting, for section 2 thereof, the following new section —

“2 (a) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the general resources of the Fund. Nothing in this Section shall be deemed to limit the provisions of Article V, Section 5 or Article VI, Section 1.

(b) If, after the expiration of a reasonable period following a declaration of ineligibility under (a) above, the member persists in its failure to fulfill any of its obligations under this Agreement, the Fund may, by a 70 percent majority of the total voting power, suspend the voting rights of the member. During the period of the suspension, the provisions of Schedule L shall apply. The Fund may, by a 70 percent majority of the total voting power, terminate the suspension at any time.

(c) If, after the expiration of a reasonable period following a decision of suspension under (b) above, the member persists in its failure to fulfill any of its obligations under this Agreement, that member may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the Governors having 85 percent of the total voting power.

(d) Regulations shall be adopted to ensure that before action is taken against any member under (a), (b), or (c) above, the member shall be informed in reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.”

Amendment of
Schedule D of
First Schedule
to principal
Act

4. Schedule D of the First Schedule to the principal Act is amended by inserting, immediately after paragraph 5 (e) thereof, the following new subparagraph —

“(f) When an Executive Director is entitled to cast the number of votes allotted to a member pursuant to Article XII, section 3 (i) (v), the Councillor appointed by the group whose members elected such Executive Director shall be entitled to vote and cast the number of votes allotted to such member. The member shall be deemed to have participated in the appointment of the Councillor entitled to vote and cast the number of votes allotted to the member.”

Insertion of
new
Schedule L
in First
Schedule
to principal
Act

5. The First Schedule to the principal Act is amended by inserting, immediately after Schedule K thereof, the following new Schedule —

“SCHEDULE L

Suspension of Voting Rights

In the case of a suspension of voting rights of a member under Article XXVI, Section 2 (b), the following provisions shall apply —

1. The member shall not —

- (a) participate in the adoption of a proposed amendment of this Agreement, or be counted in the total number of members for that purpose, except in the case of an amendment requiring acceptance by all members under Article XXVIII (b) or pertaining exclusively to the Special Drawing Rights Department;
- (b) appoint a Governor or Alternate Governor, appoint or participate in the appointment of a Councillor or Alternate Councillor, or appoint, elect, or participate in the election of an Executive Director.

2. The number of votes allotted to the member shall not be cast in any organ of the Fund. They shall not be included in the calculation of the total voting power, except for purposes of the acceptance of a proposed amendment pertaining exclusively to the Special Drawing Rights Department.

3. (a) The Governor and Alternate Governor appointed by the member shall cease to hold office.

(b) The Councillor and Alternate Councillor appointed by the member, or in whose appointment the member has participated, shall cease to hold office, provided that, if such Councillor was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended, another Councillor and Alternate Councillor shall be appointed by such other members under Schedule D, and, pending such appointment, the Councillor and Alternate Councillor shall continue to hold office, but for a maximum of 30 days from the date of the suspension.

(c) The Executive Director appointed or elected by the member, or in whose election the member has participated, shall cease to hold office, unless such Executive Director was entitled to cast the number of votes allotted to other members whose voting rights have not been suspended. In the latter case:

- (i) if more than ninety days remain before the next regular election of Executive Directors, another Executive Director shall be elected for the remainder of the term by such other members by a majority of the votes cast; pending such election, the Executive Director shall continue to hold office but for a maximum of 30 days from the date of suspension;
- (ii) if not more than 90 days remain before the next regular election of Executive Directors, the Executive Director shall continue to hold office for the remainder of the term.

4. The member shall be entitled to send a representative to attend any meeting of the Board of Governors, the Council, or the Executive Board, but not any meeting of their committees, when a request made by, or a matter particularly affecting, the member is under consideration.”

PASSED by the National Assembly this 20th day of August, 1992.

C.G. MOKOBI,
Clerk of the National Assembly.