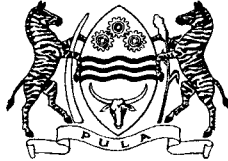


PUBLIC SERVICE ACT, 1998

No. 13



of 1998

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An Act to re-enact with amendments the provisions relating to the public service of Botswana and matters incidental thereto and connected therewith.

Date of Assent: 26.8.98.

Date of Commencement: 4.9.98.

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title

1. This Act may be cited as the Public Service Act, 1998.

Interpretation

2. (1) In this Act, unless the context otherwise requires —
“appointing authority” means any person or body having power, whether delegated or otherwise, to appoint to office in the public service;

“appointment” includes a transfer, a promotion, a temporary appointment and, if the person appointed to act draws the salary of the office, an acting appointment;

“Commission” means the Public Service Commission or the Judicial Service Commission, as the context may require;

“Committee of Selection” has the meaning assigned to it by the Standing Orders of the National Assembly;

“Director” means the Director of Public Service Management appointed under section 5;

“promotion” means the appointment of a public officer to a different public office with an increase or potential increase of salary;

“public office” and “public officer” have the same meanings as in the Constitution;

“responsible officer”, in relation to a public officer, means the public officer designated, or to whom the necessary power is delegated, under this Act, to exercise disciplinary control over and to remove from office that public officer;

“transfer” means the appointment of a public officer to another public office with no alteration or potential alteration to salary.

(2) For the purpose of the public service and section 112 of the Constitution, “Permanent Secretary” includes the holder of the public office of that designation responsible, subject to the directions and control of the Minister, for the supervision of a Ministry, and the holders of the following public offices, namely, Secretary to the Cabinet, Administrative Secretary in the Office of the President, Attorney-General, Auditor-General, Deputy Attorney-General, Director of Public Service Management, Commander of the Botswana Defence Force, Deputy Commander of the Botswana Defence Force, Commissioner of Police, Secretary of External Affairs, Secretary of Economic Affairs, Secretary of Budget Affairs, Secretary of Financial Affairs and Secretary to the Independent Electoral Commission.

(3) For the purposes of this Act, “the Permanent Secretary” means the holder of the public office of that designation responsible, subject to the directions and control of the Minister, for the administration of a Ministry, and includes the Attorney-General in respect of the Attorney-General’s Chambers, the Auditor-General in respect of the Auditor-General’s Office, the Clerk of the National Assembly in respect of the offices of the National Assembly, and the Registrar of the High Court in respect of the staff of the High Court and the Magistracy.

PART II — *Administration of Public Service*

3. The exercise of any powers or the performance of any duties under this Act shall be subject to such general directions of the President as the President may deem necessary.

Directions of
the President

Head of the
public service

4. (1) The Permanent Secretary to the President shall be the head of the public service and shall, subject to the Constitution and this Act, have vested in him the administration of the public service.

(2) The Permanent Secretary to the President may, by General Orders, make rules or regulations or give instructions for controlling the conduct of the public service and providing for the conditions of service of the public service.

(3) Any rules or regulations made, or instructions given, in terms of subsection (2) shall not be inconsistent with the provisions of this Act and shall be complied with by all public officers.

(4) The Permanent Secretary to the President may at any time exercise the functions of any other Permanent Secretary in any matter falling under this Act, and if he so does he and not the other Permanent Secretary shall be regarded for the purposes of that matter as that other Permanent Secretary.

Director of
Public Service
Management

5. (1) There shall be a Director of Public Service Management (in this Act referred to as “the Director”), who shall be a public officer appointed by the President.

(2) The Director shall, subject to the Constitution and this Act, be responsible for the following matters, namely —

- (a) conditions of appointment and terms of service;
- (b) the administration of General Orders;
- (c) the recruitment of public officers, including volunteers and technical assistance personnel;
- (d) staff complements and gradings;
- (e) the administration, structure and assessment of salaries;
- (f) public service training policy;
- (g) discipline, staff training and welfare;
- (h) localization and staff development programmes;
- (i) staff inspections and organization and methods;
- (j) the approval and administration of schemes of service;
- (k) allowances and policy with regard to pensions and gratuities;
- (l) personnel statistics;
- (m) such other matters as may be prescribed.

PART III — *Appointments to the Public Service, etc.*

Powers of
appointment,
discipline and
removal

6. (1) Subject to the Constitution, the power to appoint, remove or exercise disciplinary control over any public officer shall be vested —

- (a) in the case of any public officer on the superscale grade D1 and above (other than an officer to whom section 110 of the Constitution does not apply), in the Permanent Secretary to the President; and
- (b) in any other case, in the Director in accordance with this Act.

(2) The Permanent Secretary to the President may, with the consent of the President, by directions in writing, delegate any of his powers under this section to the Director or any other Permanent Secretary, but

notwithstanding any such delegation, the Permanent Secretary to the President may exercise any powers delegated by him, and may from time to time cancel or vary any such delegation.

(3) The Director may, with the consent of the President, by directions in writing, delegate any of his powers under this section to any public officer, but, notwithstanding any such delegation, the Director may vary or set aside any decision made by such public officer in the exercise of his delegated powers.

(4) The appointing authority shall not appoint, promote or transfer any person to or from any post in the National Assembly without the prior approval of the Speaker of the National Assembly.

(5) In giving approval to any appointment, promotion or transfer referred to in subsection (4), the Speaker shall act on the advice and recommendation of —

(a) in the case of the posts of the Clerk, Deputy Clerk or Clerk's Assistants, the Committee of the National Assembly Staff established in accordance with the provisions of subsection (6); and

(b) in any other case, the Clerk of the National Assembly.

(6) The Committee of Selection shall, at the beginning of the first session of every Parliament and for the duration of the life of such Parliament, appoint a committee to be known as the Committee of the National Assembly Staff, of which the Deputy Speaker of the National Assembly shall be the chairman.

(7) The Committee of the National Assembly Staff appointed under subsection (6) shall be responsible for tendering advice and making recommendations to the Speaker in the case of appointments and promotions to, or transfers from, the posts of the Clerk, Deputy Clerk or Clerk's Assistants, whilst the Clerk of the National Assembly shall be responsible for tendering advice and making recommendations to the Speaker for appointments, promotions or transfers in any other case.

(8) Before any power relating to the appointment of the Secretary to the House of Chiefs is exercised, the appointing authority shall consult the Chairman of that House.

(9) No person shall be appointed to the personal staff of the President except with the approval of the President.

7. (1) In selecting candidates for appointment the appointing authority shall have regard primarily to the efficiency of the public service.

Criteria for
appointment

(2) When any public office is vacant the following persons shall, subject to satisfying any scheme of service laying down the qualifications for any public office, be qualified for appointment to such office in the following order of priority —

(a) any public officer who is a citizen of Botswana;

(b) any other citizen of Botswana;

	(c) any public officer, whether on pensionable or contract terms, who is not a citizen of Botswana; (d) any other person who is not a citizen of Botswana but whose appointment to such office is approved under section 8 or deemed to be approved under section 9.
Disqualification for appointment	8. (1) No person who has been convicted of an offence involving moral turpitude or who has been dismissed from the public service shall be appointed to any public office without the approval of the President. (2) No person shall be appointed to public office unless he holds such qualifications as have been prescribed for appointment to that office: Provided that the provisions of this subsection may be waived with the approval of the Minister to facilitate the localization of the public service. (3) No person who is not a citizen of Botswana shall be appointed (other than on transfer or promotion) on pensionable terms to any public office except with the approval of the President. (4) Subject to subsection (3), no person who is not a citizen of Botswana shall be appointed to any public office unless the appointing authority is satisfied that no citizen of Botswana who is qualified and suitable for appointment is available and the President is satisfied that it would not be in the public interest for the office to remain vacant.
Appointment of citizens of certain countries	9. The appointment of any person to any public office shall be deemed to be approved if such person is a citizen of a country prescribed by the President as a country whose citizens may be recruited into the public service of Botswana without reference to him.
Retrospective appointments	10. Subject to section 13, any appointment by an appointing authority may be made retrospective to such date as he deems appropriate, whether or not such date is prior to the commencement of this Act.
Probation	11. (1) Where any person is appointed to any public office (otherwise than on promotion or transfer) on pensionable terms he shall first serve a probationary period of two years, or such other period as may be prescribed by the Minister for particular public offices. (2) Where any person who is required to serve on probation under this section has previously been employed in the service of the Government or in such other service as may be prescribed, the period or any part thereof of such previous service may, at the discretion of the appointing authority, be regarded as service on probation for the purposes of subsection (1). (3) Not more than six nor less than three months before the expiry of a probationary period the appointing authority shall consider whether — (a) the public officer should be confirmed in the public office; (b) his services being otherwise satisfactory, the probationary period should be extended so as to afford the public officer further opportunity to pass any examinations which are a condition precedent of appointment;

- (c) the probationary period should be extended to afford the public officer the opportunity of improvement in any respect in which his work or conduct have been unsatisfactory; or
- (d) the services of the public officer should be terminated:

Provided that no probationary period shall be extended for more than 12 months.

(4) Where the appointing authority is of the opinion that a probationary period should be extended or terminated he shall before extending or terminating such appointment advise the public officer in writing of his intention and inform such officer of his right to make representation thereon within 21 days.

(5) Notwithstanding anything contained in this section but subject to the giving of notice as prescribed in subsection (4) an appointing authority may terminate a probationary appointment at any time without assigning reasons therefor.

(6) An appointing authority may reduce a probationary period if the public officer has fulfilled all the requirements necessary for confirmation in office and either —

- (a) he has previously served in the public office or in a similar office on non-pensionable terms; or
- (b) the reduction of the probationary period is necessary for administrative reasons:

Provided that no probationary period shall be reduced by a period exceeding the period which the public officer concerned has served in the public office or a similar office on non-pensionable terms or a period of 12 months, whichever is less.

(7) The termination or non-confirmation of a probationary appointment shall not be dismissal or removal from office and the decision of an appointing authority to terminate, extend or not to confirm a probationary appointment shall be final and no appeal shall lie therefrom to any other person or body.

(8) A public officer on probation for two years shall be deemed to have been confirmed in his appointment, if at the end of 6 months following the end of the probationary period, he has not been informed in writing of the outcome of his probation.

(9) In this section “appointing authority” does not include a person to whom powers to appoint to public office have been delegated under section 6, and where, but for this subsection, a person to whom the power to appoint to public office has been delegated would have power to confirm in office or extend or terminate a probationary period or exercise any other power under this section, such power shall be exercised by the officer delegating the power, namely, the Permanent Secretary to the President or the Director, as the case may be.

12. (1) Where a public officer is, on or after the coming into operation of this Act, promoted to a higher public office, the first six months (exclusive of any period of leave) from the effective date of the promotion shall be a probationary period.

Promotion

(2) The Permanent Secretary of such officer may, within such period of six months, if he is of the opinion that such officer has failed to perform satisfactorily the duties of the public office to which he was promoted, or that his conduct has been unsatisfactory, inform the officer in writing that his reduction to his former rank is under consideration, and inform him of his right to make representations thereon within 21 days.

(3) The Permanent Secretary shall forward such representations, if any, together with his recommendations to the officer's responsible officer.

(4) The responsible officer shall decide whether the public officer should revert to his former rank but may, if he is of the opinion that the work of the officer requires a further trial, postpone his decision for such period as he considers necessary:

Provided that if the responsible officer has not reached a decision within three months of the matter being referred to him the officer shall not revert.

(5) The decision of the responsible officer under subsection (4) shall be final and shall not be subject to any appeal.

Date of
promotion

13. (1) Where any public officer is appointed to any public office on promotion the effective date of his promotion to such office shall, subject to subsection (2), be that fixed by the appointing authority.

(2) The appointing authority shall not fix as a date of promotion a date which is earlier than the latest of the following dates —

- (a) the date upon which the vacancy occurred;
- (b) the date upon which the officer became qualified for promotion;
- (c) the date upon which the officer assumed the functions of the office:

Provided that the appointing authority may, in special circumstances, fix a date of promotion which is earlier than the date mentioned in paragraph (c) but no such date shall be appointed which is earlier than the later of the dates mentioned in paragraphs (a) and (b).

PART IV — *Termination of Appointments and Retirements*

Termination
of contract

14. (1) If it appears to the Permanent Secretary that the appointment of a public officer serving on contract should be terminated (otherwise than by dismissal) in accordance with the provisions of his contract, the Permanent Secretary shall advise the officer in writing that the termination of his contract is under consideration and inform him of his right to make representations thereon within 21 days.

(2) The Permanent Secretary shall forward such representations, if any, together with his recommendations to the responsible officer who shall decide whether or not the contract should be terminated.

15. (1) In this section, “public officer” means a public officer admitted to permanent and pensionable terms of service.

(2) Subject to the provisions of this section —

- (a) a public officer shall retire from the public service on attaining the age of 60 years; and
- (b) a female public officer may retire from the public service on marriage.

(3) Subject to this section, a public officer who has attained the age of 45 years may in the discretion of the appointing authority be retired from the public service.

(4) Subject to subsection (3), a public officer shall have the right at any time before or after attaining the age of 45 years to give written notification to his responsible officer of his wish to be retired from the public service, and if he gives such notification he shall —

- (a) if such notification is given at least three months prior to the date on which he attains the said age, be so retired on attaining that age; or
- (b) if such notification is not given at least three months prior to the date on which he attains the said age, be so retired on the first day of the fourth month following the month in which that notification is received.

(5) If in the opinion of the appointing authority it is in the public interest to retain a public officer in his office beyond the age at which under this section he is required to retire, such officer may, if so willing, be so retained from time to time by the appointing authority for such periods as that authority may determine.

(6) The Minister may, by order published in the Gazette —

- (a) determine an age greater than 60 years, for the purpose of the retirement of public officers under subsection (2); or
 - (b) determine an age greater than 45 years for the purpose of the retirement of public officers under subsections (3) and (4),
- and on and after the date on which such order comes into operation —
- (i) the reference in subsection (2) to the age of 60 years, or
 - (ii) the reference in subsections (3) and (4) to the age of 45 years,

shall be regarded as reference to the greater age respectively determined in that order.

(7) On the abolition of any public office, a public officer holding the same shall, unless transferred by the appropriate authority to some other public office, be deemed to have retired from the public service.

(8) Nothing in this section shall be deemed to affect any provision of the Constitution relating to the removal from office or retirement of a judge of the Court of Appeal, a judge of the High Court, the Attorney-General or the Auditor-General.

(9) Nothing in this section shall be deemed to affect the compulsory retirement of a public officer in accordance with any regulations made under this Act relating to disciplinary action.

Retirement
on medical
grounds

16. (1) Where it appears to the Permanent Secretary that a public officer is incapable by reason of any infirmity of mind or body of discharging the functions of his office, he may (and shall if the officer so requests) call upon such officer to present himself to a medical practitioner approved by the Permanent Secretary, Ministry of Health, or to a Medical Board appointed in that behalf by the Permanent Secretary, Ministry of Health, with a view to it being ascertained whether or not such officer is so incapable.

(2) After the public officer has been examined by the medical practitioner or Board, as the case may be, the Permanent Secretary, Ministry of Health, shall forward the report of the examination to the Permanent Secretary together with his own recommendation on the matter.

(3) The Permanent Secretary shall forward the said report together with his own recommendation and any representations which the officer concerned wishes to make to the responsible officer who shall decide whether the officer should be called upon to retire on medical grounds.

(4) The decision of the responsible officer shall be final and shall not be questioned in any court.

PART V — *Public Officers*

General duties
of public
officers

17. It shall be the duty of every public officer to aid and assist the Government of Botswana according to the Constitution and other laws of Botswana, to carry out and obey all lawful orders of the Government and, subject to the Government's authority and direction to exercise the functions of his office impartially, efficiently and without delay so as to serve the people of Botswana and promote their welfare and lawful interests.

Whole time
of public
officer is at
the disposal
of the
Government

18. Unless it is otherwise provided in the terms of his appointment or in any other written law —

(a) every public officer shall place the whole of his time at the disposal of the Government; and

(b) no public officer may claim as of right additional remuneration in respect of any official duty or work that he is required by competent authority to perform.

Fees for
official
services

19. No fee, reward or remuneration of any kind whatsoever, beyond his emoluments, shall be received and kept for his own use by a public officer for the performance of any service for the Government, unless specially authorized by law or by the terms of his appointment or by the Permanent Secretary to the President.

Emoluments
not to be
ceded

20. Subject to the provisions of any other written law, no public officer shall, without the written approval of the Director (given after consultation with the Permanent Secretary to the Ministry responsible for finance), or the Minister responsible for finance, cede, assign or transfer the whole or any part of any salary or allowance payable to him.

21. Subject to the provisions of any other written law, every public officer shall comply with the following rules of conduct —

Publications
interviews and
use of official
information

- (a) he shall not, without the express permission of the Permanent Secretary to the President, act as the editor of a newspaper (not being a publication of the Government), nor take part directly or indirectly in the management thereof, nor publish in any manner anything which may be reasonably regarded as of a political or administrative nature, but he may publish in his own name other matter relating to subjects of general interest;
- (b) whether on duty or on leave of absence, he shall not (except with due authority) allow himself to be interviewed on questions of or connected with any matter affecting or relating to the public policy, defence, military or economic interests or resources of Botswana;
- (c) he shall not directly or indirectly reveal, or use for private purposes, any information coming to his knowledge or acquired by him of the nature or the contents of any document communicated to him either in the course of his duties or in his capacity, as an officer, otherwise than in the proper discharge of his duties as authorized by law or competent authority.

22. (1) If the Permanent Secretary becomes aware that criminal proceedings have been or are about to be instituted against a public officer, or considers that disciplinary proceedings should be instituted against a public officer, and is of the opinion that such officer should be interdicted from the performance of his duties pending the taking of proceedings against him, he shall report the matter to the responsible officer recommending the interdiction of such officer:

Interdiction

Provided that where the Permanent Secretary is the responsible officer, he shall proceed to take such action as may be taken by a responsible officer in accordance with subsections (2) and (3) and section 23.

(2) On receipt of a report under subsection (1) the responsible officer shall decide whether the public officer should be interdicted and, if so, the amount of salary (being not less than one-half) that should be paid to such officer during the period of his interdiction.

(3) If as a result of the proceedings the public officer is awarded a punishment less than dismissal the responsible officer shall decide what proportion of the emoluments withheld, if any, shall be paid to such officer:

Provided that if no punishment is awarded the whole of the emoluments withheld shall be paid to such officer.

(4) Disciplinary proceedings may be brought and concluded against an officer notwithstanding that criminal proceedings arising out of the same facts are being investigated or are pending against that officer:

Provided that no statement made or evidence given by the officer in the disciplinary proceedings shall be used against him in any criminal proceedings arising from the same facts.

Withholding
of salary

23. (1) Where a public officer is convicted of a criminal offence involving moral turpitude, he shall receive no emoluments from the date of such conviction pending a decision by the responsible officer as to whether any emoluments shall be paid to him.

(2) Where a public officer is convicted of such a criminal offence the responsible officer may, upon production of a certified copy of the record of the criminal proceedings dismiss the officer without instituting disciplinary proceedings against him.

(3) If the public officer appeals against such conviction, his emoluments shall continue to be withheld pending the outcome of the appeal, but if the appeal is successful and the sentence is set aside, he shall, if his services have been terminated, in the absence of disciplinary proceedings, be reinstated with effect from the date of termination, and he shall have repaid any emoluments withheld:

Provided that such setting aside shall not be a bar to disciplinary proceedings being instituted against such officer arising out of the same facts, but in respect of a different offence under the laws or administrative orders governing the conduct of public officers.

PART VI — *Commissions*

Definition

24. In this Part, “member” in relation to a Commission, includes any person or body of persons appointed to assist the Commission in the exercise of its functions.

Protection of
members of
Commissions
from legal
proceedings

25. Every member of a Commission shall have such and like protection and privilege in the case of any action or suit brought against him for any act done or omitted to be done in the *bona fide* execution of his duties as is by law given to acts done or words spoken by a judge of the High Court in the exercise of his judicial office.

Privilege for
communications
of Commissions

26. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between a Commission, or any member or officer thereof, and the Government, or the President, or a Minister, or any officer of the Government, or between any member or officer of a Commission and its chairman, or between members or officers of a Commission, in exercise of, or in connection with the exercise of, the functions of a Commission, unless the President consents in writing to such production or disclosure.

Powers of
Commissions

27. (1) For the performance of a Commission’s functions the Commission may —

- (a) inspect Government offices;
- (b) examine official documents, books or other records;
- (c) obtain information and advice from any public officer or other Government servant; and
- (d) do all such things, including the taking of evidence on oath and the administration of oaths, as are incidental or conducive to the exercise of the Commission’s functions.

(2) A Commission may require any public officer or other Government employee whose evidence appears to be material to the determination of any inquiry or investigation conducted by the Commission, to attend, at such time and place as may be specified by the Commission, to give evidence or produce an official document, book or other record in his possession or under his control which relates to a matter in question at any inquiry or investigation.

(3) No public officer or other Government servant shall be compelled to answer a question the answer to which may render him liable to prosecution on a criminal charge.

(4) Nothing in this section shall be construed as requiring a public officer or other Government servant to disclose information or produce an official document, book or other record, the disclosure or production of which —

(a) is prohibited or restricted in terms of the Income Tax Act, the Statistics Act, or any other written law prohibiting or restricting the disclosure of information; or

Act 12 of 1995
Cap. 17:01

(b) is certified in writing by the Minister to be contrary to the public interest.

28. Each Commission shall as soon as possible after the end of any calendar year submit a report to the Minister in respect of the discharge of its functions during that year and the Minister shall lay every such report before the National Assembly.

Commissions'
annual reports

29. Any person appearing before a Commission or any person or body conducting an inquiry or investigation on behalf of a Commission shall be entitled to be represented by a legal practitioner admitted to practise in Botswana.

Legal
representation

PART VII — *Misconduct and Unsatisfactory Service*

30. Any act done without reasonable excuse by a public officer which amounts to a failure to perform in a proper manner any duty imposed upon him as such, or which contravenes any enactment relating to the public service or which is otherwise prejudicial to the efficient conduct of the public service or tends to bring the public service into disrepute shall constitute misconduct; and the setting forth in section 31 of particular types of misconduct shall not be taken to affect the generality of this subsection.

General
definition of
misconduct

31. It is misconduct for a public officer —

(a) to be absent from duty without leave or reasonable excuse;

(b) to be insubordinate;

(c) to use, without the consent of the prescribed authority, any property or facilities provided for the purposes of the public service for some purpose not connected with his official duties;

(d) to engage in any activity outside his official duties which is likely to involve him in political controversy or to lead to his taking improper advantage of his position in the public service;

Particular
types of
misconduct

(e) to engage in any gainful occupation outside the public service without the consent of the prescribed authority.

32. Subject to the provisions of section 10 of the Pensions Act, the following are the penalties that may be imposed in disciplinary proceedings under this Act in respect of misconduct or unsatisfactory service —

- (a) dismissal, that is termination of appointment with or without forfeiture of all retirement benefits;
- (b) removal, that is termination of appointment with or without a reduction in retirement benefits;
- (c) suspension from duty with consequent loss of pay and allowances for a period not exceeding three months;
- (d) reduction in rank, that is removal to another grade with an immediate reduction of salary;
- (e) reduction of salary, that is an immediate adjustment of salary to a lower point on the salary scale attached to the post in question;
- (f) deferment of increment, that is a postponement of the date on which the next increment is due, with corresponding postponements in subsequent years;
- (g) stoppage of increment, that is non-payment for a specified period of an increment otherwise due;
- (h) in the case of an officer who is the holder of a non-pensionable post, suspension from duty with consequent loss of pay and allowances for a period not exceeding 15 days;
- (i) reprimand.

PART VIII — *Offences and Penalties*

Influencing an
appointing
authority, etc.

33. Any person who otherwise than in the course of his duty or who in the course of his duty improperly, directly or indirectly by himself or by any other person in any manner whatsoever, influences or attempts to influence the decision of the Permanent Secretary to the President, the Director, an appointing authority or a responsible officer shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both:

Provided that nothing in this section shall be deemed to make unlawful the giving of any reference or testimonial to any applicant or candidate for any public office or the supplying of any information or assistance requested by such officer.

Supplying
false
information

34. Any person who in connection with the exercise by the Permanent Secretary to the President, the Director, an appointing authority or a responsible officer, of his functions wilfully gives to such person any information which he knows to be false or does not believe to be true or which he knows or believes to be misleading by reason of the omission of any material particular, shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

35. Any person who otherwise than in the course of his duty, or in the course of his duty improperly, directly or indirectly by himself or by any other person in any manner whatsoever, influences or attempts to influence the decision of a Commission or of the chairman or of any member shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both:

Improperly
influencing a
Commission

Provided that nothing in this section shall be deemed to make unlawful the giving of any reference or testimonial to any applicant or candidate for any public office or the supplying of any information or assistance requested by a Commission.

36. Any person who in connection with the exercise by a Commission of its functions wilfully gives to a Commission or any member thereof any information which he knows to be false or does not believe to be true, or which he knows or believes to be misleading by reason of the omission of any material particular, shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

Supplying
false
information
to a Com-
mission

37. (1) Any member or other person who, without the written permission of the Minister, knowingly publishes or discloses to any other person otherwise than in the exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

Improper
disclosure

(2) Any person who knows of any information which to his knowledge has been disclosed in contravention of subsection (1) and who publishes or communicates it to any other person otherwise than for the purposes of any prosecution under this Act or in the course of his official duty shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

PART IX — *Miscellaneous*

38. The President may make regulations for the better carrying out of the purposes and provisions of this Act, and without derogation from the generality of the foregoing such regulations may provide for —

Regulations

- (a)** the procedure for making applications for the creation and abolition of public offices;
- (b)** the procedure for notifying and advertising vacancies in the public service;
- (c)** the procedure for the engagement or re-engagement of public officers on contract;
- (d)** the procedure for taking disciplinary action against public officers;

Repeal of
Cap. 26:01

Saving

- (e) anything in this Act which is to be or may be prescribed;
- (f) the setting up of bodies for the purpose of consultation between Government and members of the public service and the procedure and functions of such bodies;
- (g) the body which may conduct examinations in connection with any scheme of service or for any other purpose of the public service.

39. The Public Service Act is hereby repealed.

40. Notwithstanding the repeal of the enactment effected by section 39, every statutory instrument made under the enactment and in force on the day immediately before the commencement of this Act shall continue in force as if such instrument had been made under this Act.

PASSED by the National Assembly this 6th day of August, 1998.

C.T. MOMPEI,
Clerk of the National Assembly.