

ELECTORAL (AMENDMENT) ACT, 1999

No. 5



of 1999

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Electoral Act.

Date of Assent: 6/7/99

Date of Commencement: 16/7/99

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Electoral (Amendment) Act, 1999.
2. Section 2 of the Electoral Act (in this Act referred to as "the Act") is amended —

(a) by substituting for the definition of "Member", the following definition —

"Member" means an Elected Member of the National Assembly or an Elected Member of a council;";

(b) by substituting for the definition of "assistant returning officer", the following definition —

"assistant returning officer" means a person appointed as assistant returning officer under section 4;";

(c) by substituting for the definition of "principal registration officer", the following definition —

Short title
Amendment of
section 2 of
Cap. 02:07

“‘principal registration officer’ means the person appointed as principal registration officer under section 4;”;

(d) by substituting for the definition of “registration officer”, the following definition —

“‘registration officer’ means any person appointed as registration officer under section 4 and includes the principal registration officer;”;

(e) by substituting for the definition of “returning officer”, the following definition —

“‘returning officer’ means the person appointed as returning officer under section 4 and includes, to the extent to which he or she is permitted to act, any person appointed as assistant returning officer;”.

Amendment of
section 4 of the
Act

3. Section 4 of the Act is amended —

(a) in subsection (1), by substituting for the provisions thereof, the following new provisions —

“(1) The Secretary shall appoint —

(a) a principal registration officer for each constituency;
and

(b) such other registration officers, for each constituency and polling station, as he or she may deem necessary.”;

(b) in subsection (2), by substituting for the provisions thereof, the following new provisions —

“(2) The Secretary shall appoint —

(a) a returning officer and such number of assistant returning officers, for each constituency and polling district, as he or she may deem necessary; and

(b) a presiding officer and such number of polling officers as he or she may deem necessary for each polling station.”.

Amendment of
section 5 of the
Act

4. Section 5 of the Act is amended by inserting, immediately after subsection (2) thereof, the following new subsection —

“(3) For purposes of registration and elections to be conducted outside Botswana, the Commission shall establish polling stations outside Botswana —

(a) at all Botswana Embassies and Consular Missions; and

(b) at such other places as the Commission may consider necessary.”.

Amendment of
section 28 of
the Act

5. Section 28 of the Act is amended by substituting for the provisions of that section the following new provisions —

“28. Where a voter loses his or her voter’s registration card, or the card is destroyed, any registration officer for the constituency or polling district in which the voter is registered, in the case of a voter registered in Botswana, or a registration officer for the polling station at which the voter is registered to vote, in the case of a voter registered outside Botswana, on being satisfied as to such loss or destruction, may issue a duplicate voter’s registration card to such person:

Provided that no duplicate voter's registration card shall be issued on any day fixed for polling in that constituency, polling district or at that polling station."

6. Section 32 of the Act is amended by substituting for the provisions of subsection (5) thereof, the following new provisions —

Amendment of
section 32 of
the Act

"(5) No person may be nominated for election —

(a) in more than one constituency or while such person is a Member of the National Assembly; or

(b) in more than one polling district or while such person is a Member of a council."

7. Section 33 of the Act is amended by substituting for the provisions of subsection (1) thereof, the following new provisions —

Amendment of
section 33 of
the Act

"(1) No nomination will be valid unless the candidate shall —

(a) before his or her nomination paper is delivered to the returning officer, deposit or cause to be deposited in any convenient Government revenue office the sum of P100 in cash, in the case of election to the National Assembly, or P20 in cash, in the case of election to a council, and, at the time of delivery of the nomination papers, produce or cause to be produced to the returning officer the official receipt for that sum; or

(b) at the time of delivery of the nomination paper, deposit or cause to be deposited with the returning officer the sum of P100 in cash, in the case of election to the National Assembly, or P20 in cash, in the case of election to a council."

8. Section 49 of the Act is amended, in subsection (1), by substituting for the words "a table and a discard box", which appear in paragraph (c) thereof, the words "and a table".

Amendment of
section 49 of
the Act

9. Section 51 of the Act is amended in paragraph (c) thereof, by inserting immediately after subparagraph (iii) the following new subparagraph —

Amendment of
section 51 of
the Act

"(iv) in the case of a person voting outside Botswana, that person shall be issued with a ballot envelope and the name of the constituency, under which that person has been registered, shall then be written or stamped on it;"

10. Section 55 of the Act is amended by deleting subsection (2) thereof.

Amendment of
section 55 of
the Act

11. Section 65 of the Act is amended —

(a) in subsection (1) thereof by —

Amendment
of section 65
of the Act

(i) deleting the word "and" at the end of paragraph (b);

(ii) adding the word "and" at the end of paragraph (c); and

iii) inserting, immediately after paragraph (c), the following new paragraph —

"(d) the unused ballot envelopes in the case of voting taking place outside Botswana.";

- (b) by deleting subsection (3) thereof;
- (c) in subsection (5), by deleting paragraph (d) thereof;
- (d) by deleting subsection (6) thereof;
- (e) by renumbering subsection (4) as subsection (3);
- (f) by renumbering subsection (5) as subsection (4); and
- (g) by inserting, immediately after subsection (4), the following new subsections —

“(5) Where voting takes place outside Botswana, the presiding officer of each polling station, as soon as practicable after the closing of the poll, shall —

(a) in the presence of any candidates or their polling agents as attend, open the ballot box containing the sealed envelopes of the polling station, placing all the sealed envelopes containing the votes together with the ballot envelope account, in the prescribed Form U, into a separate packet and seal the packet with his or her seal and the seals of the candidates or their polling agents, as attend and desire to affix their seals, in such a manner that it cannot be opened and nothing can be inserted therein without the seals being broken; and

(b) transmit all the election documents in safe custody, by the safest practicable means, to the Commission.

(6) As soon as practicably possible after receiving the election documents, the Commission shall —

(a) open the sealed packets, in the presence of any of the candidates or their polling agents as attend, and place all the election documents of each constituency in a separate packet, sealing it with the Commission’s seal and with the seals of such polling agents as attend and desire to affix their seals; and

(b) transmit them in safe custody to the returning officer of the constituency in respect of which the votes were cast.

(7) The returning officer of each constituency to whom election documents have been transmitted, in accordance with the provisions of subsection (6), shall retain such documents unopened in safe custody until after the close of the poll on the date fixed under section 31(1)(b) and the documents shall be dealt with in accordance with the provisions of section 68.”.

Amendment of
section 69 of
the Act

12. Section 69 of the Act is amended —

(a) by substituting for the provisions of subsection (1) thereof, the following new provisions —

“(1) After verifying the ballot paper accounts, in the manner set out in section 68, the returning officer shall then open each ballot paper.”;

(b) by substituting for the provisions of subsection (3) thereof, the following new provisions —

“(3) The returning officer shall reject and endorse the word “rejected” on any ballot paper on which —

(a) anything, except the serial number, is written or marked by which the voter can be identified; or

(b) a voter has voted for more than one candidate.”.

13. Section 76 of the Act is amended by substituting for the provisions of that section the following new provisions —

**Amendment
of section 76
of the Act**

“76. The Secretary shall notify the Clerk of the National Assembly of the return of the writ and the Permanent Secretary of the Ministry responsible for councils, of the council election instruments, and shall cause the results of the election to be published in the Gazette.”.

14. For the purposes of registration of voters for, and voting at, the general election to be held this year, 1999, a person, qualified to be registered as a voter and to vote at an election, whose identity card has expired shall be entitled to be registered as a voter and to vote at the election using such expired identity card.

**Validation of
expired
identity cards**

PASSED by the National Assembly this 23rd day of June, 1999.

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