

PUBLIC SERVICE ACT

(Act No. 30 of 2008) *CHAP 26:01*

PUBLIC SERVICE REGULATIONS, 2011

(Published on 24th June, 2011)

ARRANGEMENT OF REGULATIONS

PART I — Preliminary

REGULATION

1. Citation
2. Interpretation

PART II — Constitution and Abolition of Public Service Post

3. Constitution of office
4. Abolition of office

PART III — Appointments

5. Notification of vacancies
6. Advertisement of vacant posts
7. Selection of candidates

PART IV — General Conditions of Service

8. Hours of work
9. Shift work
10. Weekly rest periods
11. Paid public holidays
12. Overtime
13. Annual paid leave

PART V — Performance Management

14. Performance management tools
15. Performance assessment

PART VI — General

16. Revocation of S.I. No. 39 of 2010

IN EXERCISE of the powers conferred on the President by section 65 of the Public Service Act, the following Regulations are made —

PART I – Preliminary

- Citation 1. These Regulations may be cited as the Public Service Regulations, 2011.
- Interpretation 2. In these Regulations, where the Permanent Secretary is required to report to, notify, furnish or forward evidence or information to the appointing authority, or the supervising officer, as the case may be, and the Permanent Secretary is the appointing authority or supervising officer, the Permanent Secretary shall instead proceed to deal with the matter as if he or she is the appointing authority or supervising officer.

PART II – Constitution and abolition of public service post

- Constitution
of office 3. The Permanent Secretary shall submit an application for the constitution of a public service post to the Director, and the application shall state —
- (a) the title of the post;
 - (b) the salary or salary scale to be attached to the post;
 - (c) whether the proposed post is to be pensionable;
 - (d) the reason the constitution of the post is considered necessary;
 - (e) the qualifications required of any holder of the proposed post and the duties which the holder is required to perform;
 - (f) if funds are available to sustain the post; and
 - (g) any other matter as the Director may require.
- Abolition
of office 4. (1) The Permanent Secretary shall submit an application for the abolition of a public service post to the Director, stating the reasons for the abolition of the post.
- Cap. 47:01 (2) The abolition of a public service post shall be treated as a termination of a contract of employment for the purpose of reducing the size of the workforce in accordance with section 25 of the Employment Act.
- (3) Prior to any application for the abolition of a public service post, the Permanent Secretary shall explore alternatives to absorb or redeploy an affected employee to another Department or Ministry before being exited from the public service.

PART III – Appointments

- Notification
of vacancies 5. (1) Where a vacancy occurs or is expected to occur in relation to a public service post, the Permanent Secretary shall notify their appointing authority stating whether —
- (a) the vacancy may be filled by the promotion or transfer of an officer serving in the Ministry or Department in which the post exists;
 - (b) a suitable candidate is likely to be found in some other Ministry or Department; or
 - (c) a suitable candidate may be found by advertisement in Botswana or elsewhere.
- (2) Where the Permanent Secretary recommends the promotion or transfer of an officer serving in the Ministry in which the post exists, the Permanent Secretary shall furnish the appointing authority with the record of service of the officer recommended, together with the names of any officer in the Ministry or Department who is likely to be superseded and the reasons for recommending the supersession.

(3) Where the Permanent Secretary is unable to recommend the promotion or transfer of an officer to fill the vacancy, the Permanent Secretary shall report, to the appointing authority, the names of the officers serving in the cadre or grade from which promotion would normally be made, together with the reasons for not recommending those officers for promotion.

(4) When the Permanent Secretary determines that a suitable candidate is not likely to be found by advertisement in Botswana, he or she shall notify the appointing authority of the arrangements which exist for the training of a local officer to fill the vacant post.

(5) An appointment to fill a vacancy through a promotion or transfer shall be based on the competency of the employee.

(6) The Director of Public Service Management shall undertake external recruitment of all employees.

6. (1) Subject to subregulation (2) and to any directions of the President, an application for appointment to a vacant post which is pensionable shall be invited by public advertisement in Botswana in a manner determined by the appointing authority.

Advertisement
of vacant posts

(2) A vacant post shall not be advertised where the appointing authority is satisfied —

- (a) that the post should be filled by the promotion, transfer, or re-engagement of a serving officer or the continued employment of an officer on temporary terms;
- (b) that there is no reasonable likelihood of any application being received in response to an advertisement.

7. As between officers having the same degree of preference, qualifications and experience, proven merit and suitability for the office in question shall be given greater weight than seniority.

Selection of
candidates

PART IV — *General conditions of service*

8. (1) An employee shall not be required to work, other than as provided for under regulation 12 (1), more than nine hours in any one working day or a total of 45 hours in any working week of $\frac{7}{7}$ days, or in the case of a watchman employed solely to watch over any property of the employer, more than 10 hours in any working day or a total of 60 hours in any working week of $\frac{7}{7}$ days.

Hours of work

five
six
five

(2) With the exception of a watchman, an employee shall not be required to work continuously for more than $\frac{7}{7}$ hours without an interval of at least half an hour.

9. (1) An employee whose nature of work requires to be carried on continuously shall be engaged under shift work terms and the periods of such work shall cover day, afternoon and night shifts of $\frac{7}{7}$ hours each.

Shift work

eight

(2) Employers shall, after consultation with employees' representatives determine shift rosters.

(3) In the event of any changes to the rosters, the employer shall give reasonable notice to the affected employees.

(4) An overlap of shift periods not exceeding 30 minutes may be allowed if necessary for hand-over purposes.

(5) Each shift duty shall attract an inconvenience allowance (commonly known as "shift allowance") at a rate agreed by collective agreement.

Weekly rest periods

10. (1) An employee working on a ~~6~~ day week is entitled to a rest period of 2 days in the course of each week.

(2) Where a working week is more than ~~4~~ days for an employee, the employee is entitled to a rest period of at least 24 consecutive hours in the course of each week.

Paid public holidays

11. (1) An employer shall treat the following public holidays as paid public holidays —

- (a) New Year's Day;
- (b) Good Friday;
- (c) Easter Monday;
- (d) 1st May;
- (e) Ascension Day;
- (f) Sir Seretse Khama Day;
- (g) President's Day;
- (h) Day following President's Day;
- (i) Botswana Day;
- (j) Christmas Day; and
- (k) Boxing Day.

(2) Where a paid public holiday falls on a rest day, the day next following the rest day, which is not itself a rest day, shall be deemed to be a paid public holiday.

Overtime

12. (1) Where —

- (a) an employee works for a period in excess of ~~9~~ hours in a working day or a total of 45 hours in a working week of ~~7~~ days; and
- (b) or in the case of a watchman, any period in excess of ten hours in a working day or a total of ~~sixty~~ hours in a working week of ~~6~~ days,

the employee shall be paid an overtime rate of his or her normal hourly rate plus one and a half times the rate he or she would have been paid had the time worked not been overtime.

Cap. 47:01

(2) Subject to regulation 11, an employee who works on a paid public holiday or a rest day under the Employment Act, shall be paid an overtime rate twice his or her normal hourly rate (otherwise known as "double time".)

(3) Any overtime work required by the employer shall be with the consent of the employee except in the event of business exigency.

(4) Subregulation (3) shall not apply to an employee engaged under a contract of employment which requires either long or short hours attendance; but any such employee who works for more than the stipulated aggregate hours in any one month shall be paid in accordance therewith in respect of those hours worked in excess of the average stipulated monthly hours of work.

(5) Employees referred to in subregulation (4) fall in the following categories —

- (a) teaching and training services;
- (b) shift workers;
- (c) field workers,
- (d) pumpers;
- (e) gatekeepers; and
- (f) camp keepers.

(6) Employees in the categories under subregulation (5) shall be paid as follows —

- (a) payment of overtime for all hours in excess of 176 hours in a five day week or 22 day month for shift worker;
- (b) payment of overtime for all hours in excess of 198 hours in a five-and-half day week or 22 day month for the other categories; and
- (c) payment of overtime for all hours in excess 208 hours in a six day week or 26 day month.

13. (1) An employee who works a normal working week of five days is entitled to paid leave at the following rates —

Annual paid
leave

- (a) for employees on the salary grade C1 and above; 30 working days in respect of each period of 12 months service calculated at the rate of two-and-half working days for every month of service;
- (b) for employees on the salary grade C4 to C2; 25 working days in respect of each period of 12 months service calculated at the rate of 2.08 working days for every month of service;
- (c) for employees on the salary grade B1 and below; 20 working days in respect of each period of 12 months service calculated at the rate of 1.67 working days for every month of service.

(2) An employee on salary grade B1 and below whose normal working week exceeds five days shall be entitled to paid leave at the rate of 24 working days in respect of each period of 12 months' service calculated at the rate of two working days for every month of service.

(3) In all cases, leave is subject to the requirements of the service.

(4) Any leave balance carried over to the next annual leave cycle is regulated as follows —

- (a) an employee entitled to 20 working days per annum may carry over a maximum of nine days leave balance;
- (b) an employee entitled to 24 working days per annum may carry over a maximum of 12 days leave balance; and
- (c) an employee entitled to 30 working days per annum may carry over a maximum of 14 days leave balance.

PART V — *Performance management*

Performance
management
tools

14. The Director shall put in place appropriate tools to be used in the performance of public service employees.

Performance
assessment

15. An officer responsible for supervising an employee and for monitoring and assessing the performance of the employee, shall ensure that the performance assessment cycle is adhered to by —

- (a) conducting annual performance appraisals; and
- (b) conducting at least two performance reviews in an assessment cycle.

PART VI — *General*

Revocation
of S.I. No.
39 of 2010

16. S.I. No. 39 of 2010 is revoked.

MADE this 17th day of June, 2011.

LIEUTENANT GENERAL SERETSE KHAMA IAN KHAMA,
President.