

MILITARY VETERANS ACT, 2023

No. 4



of 2023

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**An Act to provide for the benefits and welfare of military veterans;
and for matters incidental or connected therewith.**

Date of Assent: 28.04.2023

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title and commencement	1. This Act may be cited as the Military Veterans Act, 2023, and shall come into operation on such date as the Minister may, by Order published in the <i>Gazette</i> , appoint.
Interpretation	2. In this Act, unless the context otherwise requires — “Appeals Board” means the Board appointed under section 6 (1); “Defence Council” means the Defence Council established under section 22 of the Botswana Defence Force Act; “medical practitioner” has the same meaning assigned to it under the Botswana Health Professions Act; and “military veteran” means a person who —
Cap. 21:05	(a) has completed his or her service in the Botswana Defence Force;
Cap. 61:02	(b) has completed his or her military training and is no longer serving on account of resignation; or (c) could not complete his or her military service or training due to injuries sustained during military service or training, or a disease contracted during or associated with military service or training.

PART II — *Benefits Relating to Military Veterans*

Benefits relating to military veterans	3. The benefits relating to a military veteran shall be as follows — (a) dedicated counselling and treatment of a military veteran who suffers from mental disability, post-traumatic stress disorder and related conditions; (b) honouring and memorialising deceased and surviving military veterans through awards and a dedicated Military Veterans’ Day; (c) facilitation by the Ministry of access to education, training and skills development; (d) facilitation by the Ministry, in consultation with other Government departments, of access to economic empowerment through subsidies, grants and social empowerment programmes; and (e) any other benefits that the Minister may prescribe.
Medical examination and treatment	4. (1) A military veteran shall be entitled to receive free medical treatment in a Government hospital, for ill health, physical or mental incapacity or personal injury occasioned while on duty, without any misconduct or serious negligence on his or her part. (2) A military veteran who — (a) has become unfit due to a disability occasioned by ill-health, physical or mental disability or personal injury — (i) sustained while on duty, and without misconduct or serious negligence on his or her part, or

(ii) which was not sustained initially in and by the discharge of his or her duties, but which was without any misconduct or serious negligence on his or her part, aggravated to a material extent in or by the discharge of his or her duties; or
(b) could not complete his or her military training due to injuries sustained during military training or a disease contracted during or associated with military training, without misconduct or serious negligence on his or her part,
shall be entitled to a pension at a rate to be prescribed.

(3) The Ministry shall facilitate the disbursement of the pension to the military veteran as soon as practicable.

5. (1) The Ministry may at any time request a military veteran referred to under section 4 to present himself or herself to a medical practitioner for medical examination or treatment which does not involve any appreciable risk to the military veteran's life, at the expense of Government.

Disablement
benefits

(2) Where a military veteran fails to avail himself or herself for the medical examination or treatment required by the Ministry, the military veteran's right to pension awarded under section 4 (2), shall cease from the date on which he or she fails to do so:

Provided that where at any time thereafter, the military veteran avails himself or herself for the medical examination or treatment as required, he or she shall be eligible for pension with effect from the date he or she avails himself or herself for medical examination or treatment.

(3) Where a military veteran is required by the Ministry to make a journey in order to be medically examined or to undergo treatment, he or she shall be entitled to transport at the expense of the Government in such class of transport as the Ministry may determine.

(4) For the purposes of subsection (1), an opinion given by a medical practitioner shall be conclusive on the question of whether or not the medical examination or treatment required by the Ministry involves appreciable risk to the life of the military veteran concerned.

PART III — Appeals

6. (1) The Minister shall appoint an Appeals Board, which shall consist of the following members —

Appeals Board

- (a) a legal practitioner, admitted to practice in the courts of Botswana;
- (b) one person at the rank of a Director from the department responsible for labour;
- (c) a representative of the Botswana Defence Force;
- (d) a military veteran appointed by the Minister;
- (e) medical practitioner; and
- (f) any other person who, in the opinion of the Minister, has expertise in matters related to military veterans.

(2) The Minister shall appoint a Chairperson of the Appeals Board from amongst the members of the Appeals Board.

(3) The Minister shall, by Notice in the *Gazette*, publish the appointment of members.

(4) A person aggrieved by any action or decision taken by the Ministry, may appeal to the Appeals Board within six months of the decision of the Ministry.

Functions of
Appeals Board

7. (1) The Appeals Board shall —

(a) consider appeals lodged by a military veteran or any person acting on behalf of any military veteran, against any action or decision taken by the Ministry in terms of this Act;

(b) advise the Ministry on matters that relate to military veterans that are referred to it; and

(c) consider matters relating to military veterans referred to it by the Ministry.

(2) Notwithstanding the provisions of subsection (1), the Appeals Board shall not consider appeals that have been dealt with in accordance with the Botswana Defence Force Act.

(3) The Appeals Board may —

(a) confirm, set aside or vary a decision contemplated in subsection (1) (a);

(b) substitute any other decision for that decision;

(c) provide the required advice; or

(d) refer the appeal to the Defence Council, which may consider the appeal or determine how it may be proceeded with.

(4) The Appeals Board may, for the purposes of subsection (1) —

(a) summon, in a Form prescribed by the Minister, any person who in the Appeals Board's opinion may be able to give information, or who it believes has in his or her possession or custody or under his or her control, any document which has any bearing upon the matter under consideration, to appear before it at a time and place specified in the summons to be questioned or to produce that document, and retain for examination any document so produced;

(b) administer an oath to or accept an affirmation from any person called as a witness; or

(c) call any person present at the proceedings as a witness and interrogate such person and require such person to produce any document in his or her possession or custody or under his or her control, and such a person is entitled to legal representation at his or her own expense.

Tenure of office

8. (1) A member of the Appeals Board shall hold office for a period not exceeding three years as may be specified in the letter appointing the member.

(2) A member shall be eligible for re-appointment for not more than two consecutive terms.

Removal from
office and
resignation

9. (1) The Minister may remove a member of the Appeals Board from office where the member —

- (a) is absent without reasonable cause for three consecutive meetings of the Appeals Board of which the member has had notice;
- (b) has been found to be physically or mentally incapable of performing his or her duties efficiently, and a medical doctor has issued a certificate to that effect; or
- (c) contravenes a provision of this Act or otherwise misconducts himself or herself to the detriment of the objectives of the Appeals Board.

(2) The Chairperson or any member may resign from office by giving 30 days' notice, in writing, to the Minister.

10. A member of the Appeals Board shall be paid such remuneration and allowances as the Minister may determine.

Remuneration

11. (1) The first meeting of the Appeals Board shall be held on such date, time and place as the Chairperson may determine.

Meetings of Appeals Board

(2) Any subsequent meeting shall be held on such date, time and place as the Chairperson may, in consultation with the Appeals Board, determine.

(3) The Appeals Board shall meet at least four times a year, for the transaction of its business.

(4) The quorum at any meeting shall be simple majority of the members.

(5) A decision of the Appeals Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.

(6) The Ministry shall provide secretarial services to the Appeals Board.

12. A person aggrieved by a decision taken by the Appeals Board, may appeal to the Defence Council within three months of the decision of the Appeals Board.

Appeals to Defence Council

PART IV — *Miscellaneous Provisions*

13. (1) The Minister may make Regulations generally for the better carrying into effect of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), Regulations may provide for —

- (a) the criteria that shall be met in order to qualify for benefits; and
- (b) any matter required or permitted to be prescribed by or in terms of this Act.

14. (1) Any decisions made and any other actions lawfully taken by the Commander of the Botswana Defence Force, the Minister or the Defence Council in relation to the affairs of military veterans, before the commencement of this Act shall be deemed to be decisions made and actions taken under this Act.

Savings and transitional provisions

(2) Any requests pending before the Commander of the Botswana Defence Force, the Minister or the Defence Council immediately before the commencement of this Act shall be dealt with by the Commander of the Botswana Defence Force, the Minister or the Defence Council, respectively.

(3) Any right of appeal which subsisted immediately before the commencement of this Act shall continue to subsist.

(4) Any appeal which commenced before the commencement of this Act shall be prosecuted and disposed of as if commenced in terms of this Act.

PASSED by the National Assembly this 14th day of April, 2023.

BARBARA N. DITHIAPPO,
Clerk of the National Assembly.