

**THE CONSTITUTION (AMENDMENT AND SUPPLEMENTARY PROVISIONS)
ACT, 1969**

No. 30



of 1969

**AN ACT TO AMEND THE BOTSWANA INDEPENDENCE ORDER 1966 AND THE
CONSTITUTION OF BOTSWANA AND TO MAKE PROVISION SUPPLEMENTARY
THERE TO**

Date of Assent: 18. 8.69.

Date of Commencement: 18. 8. 69.

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Constitution (Amendment and Supplementary Provisions) Act, 1969.

Repeal of Section 9 of the Botswana Independence Order 1966

2. Section 9 of the Botswana Independence Order 1966 is repealed.

Amendment of the Constitution of Botswana

3. The provisions of the Constitution of Botswana (as contained in Schedule 2 to the Botswana Independence Order 1966) specified in the first column of the Schedule are amended in the manner specified in relation thereto in the second column of the Schedule.

Director of Audit to continue in office as Auditor-General

4. Any person who immediately before the commencement of this Act holds or is acting in the office of Director of Audit (as established by section 126 of the Constitution of Botswana) shall as from the commencement of this Act be deemed to have been appointed to hold or to act in the office of Auditor-General.

SCHEDULE
(Section 3)

| <i>Provision</i> | <i>Amendment</i> |
|-------------------|---|
| Chapter II | |
| 1. Section 5 | In subsection (1) insert the following new paragraph – “(k) for the purpose of ensuring the safety of aircraft in flight;” |
| 2. Section 8 | In subsection (1)(a)(ii) delete “and” and substitute “or”. |
| 3. | In subsection(1)(a) insert the following new sub-paragraph – “(iii) in order to secure the development or utilisation of the mineral resources of Botswana; and”. |
| 4. | Insert the following new subsection – “(2A) Subsection (1)(b)(i) of this section shall be deemed to be satisfied in relation to any law applicable to the taking of possession of minerals or the acquisition of rights to minerals if that law makes provision for the payment at reasonable intervals of adequate royalties.”. |
| 5. | In subsection (12)(b) immediately after “(2)(d)” insert “or (2)(e)”. |
| 6. Section 13 | In subsection (2) insert the following new paragraph – “(d) for the registration of trade unions and associations of trade unions in a register established by or under any law, and for imposing reasonable conditions relating to the requirements for entry on such a register (including conditions as to the minimum number of persons necessary to constitute a trade union qualified for registration, or of members necessary to constitute an association of trade unions qualified for registration, and conditions whereby registration may be refused on the grounds that any other trade union already registered, or association of trade unions already registered, as the case may be, is sufficiently representative of the whole or of a substantial proportion of the interests in respect of which registration of a trade union or association of trade unions is sought.”. |

7. Section 15 In subsection (4) delete paragraph (d) and substitute –
- “(d) for the application in the case of members of a particular race, community or tribe of customary law with respect to any matter whether to the exclusion of any law in respect to that matter which is applicable in the case of other persons or not;”.

Chapter III

8. Section 23 Repeal
9. Section 25 Insert the following new subsection –
- “(3) Provision may be made by or under an Act of Parliament prescribing circumstances in which a person shall not be entitled to registration as a citizen of Botswana under this section.”.
10. Section 26 Repeal and replace as follows –
- “Woman married to Botswana citizen, etc.**
- 26 (1) Any woman who has been married to a person who was at any time during the subsistence of the marriage a citizen of Botswana (or has been married to a person who having died before the 30th September 1966 would, but for his death, have become a citizen of Botswana on that date by virtue of section 20 of this Constitution) shall be entitled, upon making application in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Botswana.

(2) For the purposes of this section any person who died before 30th September 1966 and who immediately prior to his death was a citizen of the United Kingdom and Colonies or a British protected person and was not a citizen of any other country shall, if his father became or would but for his death have become a citizen of Botswana in accordance with the provisions of subsection (1) of section 20 of this Constitution, be deemed to be a person who would, but for his death, have become a citizen of Botswana on 30th September, 1966 by virtue of subsection (2) of that section.

Chapter VII

11. Section 110 In subsection (11) insert at the beginning
- “Except as provided in subsection (13) of this section and subsection (8) of section 111,”.

12. Delete subsection (13) and substitute the following new subsections, the existing subsection (14) being renumbered (16) –
- “(13) Provision may be made by or under an Act of Parliament prescribing the procedure of the Commission and, subject thereto, the Commission may regulate its own procedure.
- (14) Except as may be otherwise provided in its rules of procedure, the Commission may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.
- (15) Any decision of the Commission shall require the concurrence of a majority of all the members thereof.”.
13. Section 111 Delete subsection (5).
14. Insert the following new subsections –
- “(7) No person shall be appointed under this section to or to act in any office on the personal staff of the President except with the concurrence of the President.
- (8) The President may give to the Public Service Commission or to any person to whom the functions of the Commission are delegated under subsection (3) of this section such general directions with respect to the exercise of the functions of the Commission under subsection (1) of this section as the President may consider necessary and the Commission or that person shall comply with those directions.”.
15. Section 114 In subsection (1) immediately after “shall” insert “,subject to the provisions of section 115 of this Constitution,”.
16. In the proviso to subsection (2) delete “3(c)” and substitute “3(d)”.
17. In subsection (3) immediately after paragraph (b) insert the following new paragraph, the existing paragraphs (c) and (d) being relettered (d) and (e) –
- “(c) Attorney-General;”.
18. In subsection (1) immediately after “years” insert “or such other age as may be prescribed by Parliament”.
19. Delete “Director of Audit” wherever it occurs and substitute “Auditor-General”.

20. In subsection (1) immediately after "years" insert "or such other age as may be prescribed by Parliament".
21. Section 118 In subsection (3) delete "Director of Audit" and substitute "Auditor-General".

Chapter VIII

22. Section 124 In subsection (5) delete "Director of Audit" and substitute "Auditor-General".
23. Section 127 Delete "Director of Audit" wherever it occurs and substitute "Auditor-General".

Chapter IX

24. Section 127 Delete subsection (2) and substitute:-

"(2) The resignation of any person from any office established by this Constitution shall take effect on the date or at the time indicated in the writing signifying the resignation or, if no such date or time is so indicated, at the time the writing is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it."

Passed by the National Assembly this day, the 11th August, 1969.

G.T. MATENGE
Clerk of the National Assembly.

CERTIFICATE

I, GAEFALALE GAOLEBALE SEBESO, Deputy Speaker of the National Assembly, hereby certify that the final voting in the National Assembly on the Constitution (Amendment and Supplementary Provisions) Bill, 1969, took place not less than three months after the previous voting thereon in the National Assembly and that at such final voting the said Bill was supported by not less than two-thirds of all the members of the National Assembly.

G.G. SEBESO,
Deputy Speaker.

Dated: 15th August, 1969.