

Statutory Instrument No. 77 of 2024

INTERSTATE TRANSFER OF PRISONERS ACT
(Cap. 21:04)

INTERSTATE TRANSFER OF PRISONERS REGULATIONS, 2024
(Published on 5th July, 2024)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Defence and Security by section 14 of the Interstate Transfer of Prisoners Act, the following Regulations are hereby made —

PART I — Preliminary Provisions

- | | |
|----------------|---|
| Citation | 1. These Regulations may be cited as the Interstate Transfer of Prisoners Regulations, 2024. |
| Interpretation | 2. In these Regulations, unless the context otherwise requires —
“sentenced prisoner” means a person who has been convicted, sentenced and deprived of his or her liberty by a judgment of a court of competent jurisdiction, in Botswana or a transfer country. |

PART II — Transfer of Sentenced Prisoners to Botswana

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| Application for transfer to Botswana | 3. (1) An application to transfer a prisoner to Botswana shall be made to the appropriate authority in Form A set out in the Schedule and submitted to the Minister.
(2) The application referred to in subregulation (1), shall be submitted to the appropriate authority, in that transfer country. |
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(3) An application referred to in this regulation shall be submitted to the appropriate authority within 30 days and shall be accompanied by —

- (a) a certified copy of the judgement;
- (b) identification documents of the prisoner; and
- (c) any other document which is categorised as a valid document to prove Botswana citizenship or nationality:

Provided that before submission to the appropriate authority, the official representative for Botswana shall verify and confirm the applicant's citizenship or nationality, and his or her voluntary consent, in writing, for transfer to Botswana.

4. (1) Where the Minister grants the request for transfer under regulation 3, the Minister shall, within 21 days issue a transfer warrant in Form B set out in the Schedule.

Consideration
of transfer to
Botswana

(2) Where the Minister refuses a request for transfer under regulation 3, the Minister shall, within 21 days issue the refusal in Form C set out in the Schedule.

(3) The decision of the Minister under regulation 5 (3) shall be sent to the appropriate authority of the transferring state within seven days.

PART III — *Transfer of Sentenced Prisoner from Botswana*

5. (1) An application to transfer a prisoner from Botswana shall be made to the Commissioner in Form D set out in the Schedule.

Application for
transfer from
Botswana

(2) An application referred to in this regulation shall be accompanied by additional documents provided in section 8 (2) of the Act.

(3) The Commissioner shall forward the application, together with his or her comments, to the Minister for consideration and decision.

6. (1) Where the Minister grants the request for transfer under regulation 5 (1), the Minister shall, within 21 days issue a release warrant to an applicant in Form E as set out in the Schedule.

Consideration
of transfer from
Botswana

(2) Where the Minister refuses the request for transfer under regulation 5 (1), the Minister shall, within 21 days, issue a refusal, in Form F, set out in the Schedule.

7. Where the Minister grants the request for transfer made under this Part, the Commissioner shall submit to the appropriate authority of the transfer country a request for transfer.

Effecting
transfer

8. (1) The Minister shall, where the request for transfer is approved by the transfer country —

Notification
of request

- (a) issue to the Commissioner, a warrant in Form C or D as set out in the Schedule to authorise the release of the sentenced prisoner;
- (b) clearly indicate in the warrant, to whom the sentenced prisoner should be handed over to; and
- (c) clearly state the remainder of the term of imprisonment.

(2) It shall be the responsibility of the transfer country to bear the costs of the transfer of a sentenced prisoner from Botswana.

SCHEDULE
FORM A
APPLICATION FOR TRANSFER TO BOTSWANA
(regs. 3 and 4)

Instructions:

1. This form must be completed and submitted to the Minister in duplicate.
2. Part A is to be completed by the prisoner.
3. Parts B, C, and D are to be completed by the prison authorities where the sentenced offender is serving his or her sentence.
4. Parts E and F shall be completed by the Botswana Embassy.

PRISON:

ADMINISTERING STATE

A. OFFENDER'S PARTICULARS

1. Surname: Full name or names:
2. Date of birth: Place of birth:
3. Gender: Male or Female: Marital status: Single or Married:.....
4. Last residential address in Botswana:

5. **Next of kin:**

Surname:

Full name or names:

Residential Address:

Telephone:

Relationship:

6. **Citizenship**

Birth: or Naturalisation:

7. Omang Number

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8. Education and Work Experience:

Educational Qualifications:

Current Occupation:

Previous work experience:

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9. Residence Abroad:

How long have you resided abroad? years months.

Residential address:

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Briefly state your reasons for being abroad:

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10. Support:

State the name of any person or agency and their contact addresses and telephone numbers who might be willing to give you support after your transfer to Botswana:

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11. State any other information that you think Botswana officials should know about you or your case:

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12. I certify that the information I gave above is to the best of my knowledge true and that I am voluntarily requesting to be transferred to Botswana and my reasons for requesting the transfer are as follows:

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Signature: Sentenced Prisoner

Date

B. PARTICULARS OF OFFENCE AND SENTENCE

1. Current Offence and sentence thereof:

Offence	Sentence
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2. Names of accomplices (if any):

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C. CRIMINAL HISTORY AND CONVICTIONS

1. Previous Convictions:

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2. History of any escape or attempted escape from lawful custody:

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3. Any involvement in untoward incidents or riot or assault or hostage taking at a prison?

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4. Violence:

(a) Violent incidents involving the prisoner occurred in:

Community: Prison:

(b) The violent incidents resulted in:

Property damage: Death:

Minor injury:

Serious injury:

Other (Specify):

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(c) The violent incidents included the use of:

Firearms: Other (Specify):

5. History of drug or alcohol abuse:

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D. TREATMENT PROGRAMMES

1. Offender's interests:

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2. Level of participation in treatment programmes:

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3. Offender's immediate needs (medical, security, psychiatric, psychological) specify:

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E. COMMENTS OF BOTSWANA EMBASSY

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Signature: Botswana Embassy

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Date

F. DECISION

(Please tick the appropriate box)

Transfer approved

Transfer NOT approved

Remarks:

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MINISTER

.....
Date

FORM B
TRANSFER WARRANT
(reg. 5)

TO: The Commissioner

RE: NAME OF PRISONER:

GENDER:

I.D or Passport Number

The above mentioned sentenced prisoner who has been transferred to Botswana from was convicted of the undermentioned offence or offences and was sentenced to imprisonment as indicated hereunder. This is to authorize you to receive him or her into your custody to continue serving the remainder of his or her sentence in accordance with Prisons Act.

Offence or offences for which the prisoner was convicted:

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Date of conviction:

Sentence:

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Date of sentence:

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MINISTER

.....
DATE

FORM C
REFUSAL FOR TRANSFER
(reg. 4)

TO: The Commissioner

RE: NAME OF PRISONER:

GENDER:

ID or Passport Number

The above mentioned sentenced prisoner has made an application to be transferred fromto Botswana and was convicted of the undermentioned offence or offences and was sentenced to imprisonment as indicated hereunder. This is a refusal to effect this transfer in accordance with Prisons Act.

Offence or offences for which the prisoner was convicted:

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Date of conviction:

Sentence:

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Date of sentence:

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MINISTER

.....
DATE

FORM D
APPLICATION FOR TRANSFER FROM BOTSWANA
(reg. 6)

Instructions:

1. This form must be completed and submitted in duplicate.
2. The oath should be administered by the officer in charge.

A. OFFENDER'S PARTICULARS

1. Surname: Full name or Names:
2. Date of birth: Place of birth:
3. Gender: Male or Female: Marital status: Single or Married:
4. Last residential address before coming to Botswana:

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5. Next of kin:

Surname:

Full name:

Residential Address:

Telephone:

Relationship:

6. You are citizen of by:

Birth: Naturalisation:

7. Omang Number

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8. Education and Work Experience:

Educational Qualifications:

Current Occupation:

Previous work experience:

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9. Residence:

How long have you resided in Botswana? years months.

Residential address:

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Briefly state your reasons for being in Botswana:

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10. Support:

State the name of any person or agency and their contact addresses and telephone numbers who might be willing to give you support after your transfer from Botswana:

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4. Names of accomplices (if any):

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C. CRIMINAL HISTORY AND CONVICTIONS

6. Previous Convictions:

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7. History of any escape or attempted escape from lawful custody:

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8. Any involvement in untoward incidents or riot or assault or hostage taking at a prison?

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9. Violence:

(d) Violent incidents involving the prisoner occurred in:

Community: Prison:

(e) The violent incidents resulted in:

Property damage: Death:

Minor injury:

Serious injury:

Other (Specify):

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(f) The violent incidents included the use of:

Firearms: Other (Specify):

10. History of drug or alcohol abuse:

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D. TREATMENT PROGRAMMES

1. Offender's interests:

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2. Level of participation in treatment programmes:

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.....

3. Offender's immediate needs (medical, security, psychiatric, psychological) specify:

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E. COMMENTS OF BOTSWANA EMBASSY

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Signature: Botswanan Embassy

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Date

F. DECISION

(Please tick the appropriate box)

Transfer approved

Transfer NOT approved

Remarks:

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MINISTER

.....
Date

B. DECLARATION

I, do hereby declare that:

(i) I am voluntarily applying for transfer to to serve the remainder of my sentence;

(ii) I understand the provisions of the Interstate Transfer of Prisoners Act (Cap. 21:04) and the provisions of the agreement on transfer of convicted prisoners between Botswana and and I accept that the mentioned provisions are binding on me;

(iii) I authorize the Botswana Prison Service to release any information and records for the purpose of this application;

(iv) I am conversant with the contents of this application and understand it;

(v) I do or do not have any objection to take the prescribed oath; and

(vi) I do/ do not consider the prescribed oath as binding on my conscience.

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Signature: Prisoner
Date

I certify that the prisoner admits that he/she is conversant with the contents of this application and understands it. This declaration was sworn to/affirmed before me and the prisoner's signature was affixed thereto in my presence at on this day of

..... 20

Signature:

Full Names:

Address:

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RANK:
COMMISSIONER OF OATHS

C. DECLARATION

I, do hereby declare that:

- (i) I do not consent to the application for transfer to to serve the remainder of my sentence;
- (ii) I understand the provisions of the Interstate Transfer of Prisoners Act (Cap. 21:04) and the provisions of the agreement or refusal on transfer of convicted prisoners between Botswana and and I accept that the mentioned provisions are binding on me;
- (iii) I authorize the Botswanan Prison Service to release any information and records for the purpose of this application;
- (iv) I am conversant with the contents of this application and understand it;
- (v) I do or do not have any objection to take the prescribed oath; and
- (vi) I do/ do not consider the prescribed oath as binding on my conscience.

.....
Signature: Prisoner **Date**

I certify that the prisoner admits that he/she is conversant with the contents of this application and understands it. This declaration was sworn to/affirmed before me and the prisoner's signature was affixed thereto in my presence at on this day of

..... 20

Signature:

Full Names:

Address:

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.....

RANK:
COMMISSIONER OF OATHS

FORM E
RELEASE WARRANT
(reg. 9)

TO: The Commissioner

RE: NAME OF PRISONER:

PRISON NUMBER:

GENDER:

CASE NUMBER:

I hereby authorize you to release the above mentioned sentenced prisoner whose application for transfer to has been approved and you should hand him/her over to

FORM F
REFUSAL OF RELEASE WARRANT
(reg. 8)

TO: The Commissioner

RE: NAME OF PRISONER:

PRISON NUMBER:

GENDER:

CASE NUMBER:

I hereby refuse for you to release the above mentioned sentenced prisoner who applied for
transfer to

.....
MINISTER

.....
DATE

MADE this 24th day of June, 2024.

THOMAS KAGISO MMUSI,
Minister of Defence and Security.