

THE LAWS OF BOTSWANA

PRINCIPAL LEGISLATION

CHAPTER 02:01 PRESIDENTIAL ELECTIONS (SUPPLEMENTARY PROVISIONS) ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Application of Act
3. Interpretation
4. Time and place of nomination
5. Form of nomination
6. Form of support
7. Appointment of authenticating officers
8. Authentication of support papers
9. Examination of nomination papers and counting of support papers
10. Declaration of candidates validly nominated
11. Nomination and support papers to be open for inspection
12. Choice of colour and symbol
13. Decision of returning officer and Supervision of Elections final
14. Power to amend Schedules and to prescribe forms
15. Penalties

First Schedule - Nomination Paper for a Presidential Candidate

Second Schedule - Support Paper for a Presidential Candidate

Third Schedule - Notice of Choice of Colour and Symbol

Act 41, 1969,
S.I. 71, 1975,
Act 14, 1977,
Act 14, 1979,
S.I. 78, 1979.

An Act to make provision ancillary to the Constitution of Botswana for the election of a President.

[Date of Commencement: 22nd August, 1969]

1. Short title

This Act may be cited as the Presidential Elections (Supplementary Provisions) Act.

2. Application of Act

This Act shall apply in respect of the holding of an election to the office of President in accordance with the provisions of section 32 of the Constitution.

3. Interpretation

In this Act unless the context otherwise requires-

"**candidate**" means a candidate for office of President;

"**days**" include Saturdays, Sundays and public holidays;

"**returning officer**" means the Chief Justice of Botswana;

"**Supervisor of Elections**" means the person designated as Supervisor of Elections in

accordance with the provisions of section 66 of the Constitution.

4. Time and place of nomination

(1) Nomination day of candidates shall be the first Saturday following the expiry of 20 days after each dissolution of the National Assembly.

(2) Every nomination of a candidate shall be handed to the returning officer at the High Court at Lobatse, between the hours of 10 o'clock in the forenoon and 1 o'clock in the afternoon or between the hours of 2 o'clock and 5 o'clock in the afternoon of nomination day.

(3) For the purposes of subsection (2) the expression "nomination" means a nomination paper and the support papers in respect of the candidate who is named in such nomination paper.

5. Form of nomination

(1) Every candidate shall be nominated by a proposer and a seconder (who shall be regarded as supporters for the purposes of section 32 of the Constitution) being persons who are registered as voters for the purposes of elections to the National Assembly and the nomination shall be made on a nomination paper in the form prescribed in the First Schedule.

(2) A nomination paper shall not be valid unless it is signed by the candidate, his proposer and seconder or marked by them with their marks and contains in accordance with the requirements noted on the form the following particulars-

- (a) the full name and address of the candidate, his constituency, the polling station at which he is registered and his number on the election roll;
- (b) the name, address and constituency of both the proposer and the seconder, and the polling station at which they are registered and their number on the Election Roll;
- (c) a statement by the candidate that he is willing and qualified to stand for election.

6. Form of support

(1) In addition to his proposer and seconder every candidate shall be supported by not less than 998 supporters being persons who are registered as voters for the purpose of elections to the National Assembly.

(2) Every supporter shall complete a support paper in the form set out in the Second Schedule.

(3) No person shall sign a support paper in favour of more than one candidate or more than one paper in favour of the same candidate.

(4) No person shall present a support paper for authentication other than a support paper in which he is named as the supporter.

7. Appointment of authenticating officers

(1) For the purposes of this Act the Secretary to the Independent Electoral Commission shall appoint such number of authenticating officers as he may deem necessary and shall publish the names and addresses of such officers in the *Gazette*.

(2) The Secretary to the Independent Electoral Commission shall issue to every authenticating officer an official stamp in such form as he may deem appropriate.

8. Authentication of support papers

(1) When any supporter presents a support paper to an authenticating officer such supporter shall produce to the authenticating officer his voter's registration card.

(2) An authenticating officer to whom a support paper is presented shall endorse such paper in the form provided thereon and shall authenticate such paper by stamping it with his official stamp if, and shall not endorse or authenticate such paper unless-

- (a) such paper contains in accordance with the requirements noted on the form the following particulars-
 - (i) the name of the candidate supported;
 - (ii) the name of the supporter;
 - (iii) the constituency in which the supporter is registered;
 - (iv) the polling station at which the supporter is registered;

- (v) the number of the supporter's voter's registration card; and
- (vi) the supporter's signature;
- (b) he is satisfied that the description of the supporter in the support paper corresponds to the description in the voter's registration card produced with such support paper; and
- (c) he is satisfied from an inspection of the back of the voter's registration card that the supporter has not signed any other support paper at that election.

(3) When an authenticating officer has authenticated a support paper he shall hand such paper to the person who presented it to him and shall stamp the back of the voter's registration card with his official stamp.

9. Examination of nomination papers and counting of support papers

(1) Upon the receipt of every nomination paper the returning officer shall forthwith examine such paper and after obtaining such information, if any, as he may deem necessary shall determine whether or not such nomination paper complies with the provisions of section 5.

(2) Where the returning officer determines that a nomination paper complies with the provisions of section 5 he shall thereupon count the support papers in respect of the candidate named in such nomination paper which have been authenticated in accordance with the provisions of section 8.

(3) Notwithstanding that a support paper has been authenticated the returning officer shall not count such paper unless-

- (a) it contains the particulars specified in section 8; and
- (b) he is satisfied that the candidate named therein is the candidate in whose favour such support paper is tendered.

(4) Notwithstanding anything contained in subsection (2) of this section where the returning officer has counted not less than 998 authenticated support papers in support of the same candidate he shall not be required to count further authenticated support papers, if any, in respect of such candidate.

(5) Where the returning officer has counted not less than 998 authenticated support papers in support of the same candidate and is satisfied that the candidate has been validly nominated, he shall so advise the candidate.

(6) Whenever the returning officer decides that a candidate has not been validly nominated he shall endorse and sign on the declaration paper his decision and the reasons therefor and shall so advise such candidate and such decision shall not be questioned in any legal proceedings except on an election petition.

(7) A candidate whose first nomination paper is or may be invalid shall be permitted to submit a second or subsequent nomination paper before the time fixed for the expiry of the time for nominations.

10. Declaration of candidates validly nominated

The returning officer shall, as soon as may be after the expiry of the time for nominations as provided in section 4, declare at the High Court at Lobatse which, if any, candidates have been validly nominated by reason of having been named in a nomination paper which complies with the requirements of section 5 and for whom he has counted not less than 998 authenticated support papers and shall publish such declaration in the *Gazette*.

11. Nomination and support papers to be open for inspection

All nomination and support papers shall, after any declaration made in accordance with section 10, be handed to the Registrar of the High Court and shall be open to inspection during normal office hours for a period of 14 days.

12. Choice of colour and symbol

(1) Every candidate whose nomination has been accepted as valid by the returning officer under section 9 and who has been so advised shall thereupon hand or cause to be handed to the returning officer a notice in the form set out in the Third Schedule, of the voting colour and symbol he wishes to be allocated to him for the purpose of the Presidential election.

(2) Subject to the provisions of subsection (3) the returning officer shall allocate to every candidate who has been validly nominated the voting colour and symbol that such candidate desires to be allocated to him:

Provided that if such colour or symbol has already been registered under the provisions of section 150 of the Electoral Act, he shall only be allocated such colour or symbol if the returning officer is satisfied on such evidence he deems fit that the candidate is the candidate of the political party who has registered such symbol and colour, and if the returning officer is not so satisfied he shall allocate to such candidate such voting colour and symbol as the returning officer after obtaining such information as he may deem necessary considers appropriate.

(3) If more than one candidate wishes the same voting colour and symbol to be allocated to him and if such colour and symbol have not been registered under the provisions of the Electoral Act the returning officer shall decide by lot, in the presence of the candidates, the candidate who is to be allocated the voting colour and symbol he has chosen and shall allocate to the other candidate such other voting colour and symbol as the returning officer, after obtaining such information as he may deem necessary, considers appropriate.

13. Decision of returning officer and Supervisor of Elections final

(1) The decision of the returning officer not to count an authenticated support paper or that a candidate has been validly nominated or the allocation by the returning officer of any voting colour and symbol shall be final and shall not be questioned in any legal proceedings.

(2) The decision of an authenticating officer to authenticate or not to authenticate any support paper shall be final and shall not be questioned in any legal proceedings.

14. Power to amend Schedules and to prescribe forms

The Supervisor of Elections may, by statutory instrument, make regulations amending any of the forms in the Schedules or prescribing such forms as may be considered necessary for the purpose of giving effect to the provisions of this Act.

15. Penalties

(1) Any person who makes or causes to be made a false statement in any nomination paper or any support paper or who contravenes the provisions of section 6(3) or 6(4) shall be guilty of an offence and shall be liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding one year, or to both.

(2) Any authenticating officer who knowingly makes a false endorsement on a support paper or who authenticates a support paper which he knows or has reason to believe has not been made by the person presenting such paper to him or which has been made by a person who has already made a support paper in favour of a candidate in the election at which such paper is presented shall be guilty of an offence and shall be liable to a fine not exceeding P2 000 or to imprisonment for a term not exceeding two years, or to both.

FIRST SCHEDULE
NOMINATION PAPER FOR A PRESIDENTIAL CANDIDATE
 BOTSWANA ELECTIONS
 PRESIDENTIAL ELECTIONS (SUPPLEMENTARY PROVISIONS) ACT
 (section 5)

We, the undersigned, hereby nominate
 (full name in block capitals)

of
 (full address)

as candidate for election to the office of President.

<i>Full names in block capitals (surname first)</i>	<i>Sex</i>	<i>Address</i>	<i>Constituency in which registered</i>	<i>Polling Station at which registered</i>	<i>Number on Election Roll</i>	<i>Signature</i>

Proposed by							
Seconded by							

(back of nomination paper)

I, the said (candidate's full name)
of(full address)
do hereby state that I am willing to be nominated for election to the office of President and
declare that -

- (a) I am a citizen of Botswana;
- (b) I have attained the age of 30 years;
- (c) I am qualified to be elected as a member of the National Assembly in that -
 - (i) I am registered as a voter under No.....
at thepolling station
in theconstituency;
 - (ii) I am able to speak and read English well enough to take an active part in the
proceedings of the National Assembly; and
 - (iii) I am not disqualified by reason of section 62 of the Constitution from being elected
as a member of the National Assembly.

Date

.....
Signature of Candidate

**SECOND SCHEDULE
SUPPORT PAPER FOR A PRESIDENTIAL CANDIDATE**

BOTSWANA ELECTIONS

PRESIDENTIAL ELECTIONS (SUPPLEMENTARY PROVISIONS) ACT

(section 6)

(Note: This paper will not be valid as a
support paper unless all the details
required are given)

I,
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..... hereby
support
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(full name in block capitals)
of

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.....
(full address)
as a candidate for election to the office
of President.

Full names in block capitals (Surname first)	Constituency in which registered	Polling Station at which registered	Number of voter's registration card	Signature

I, (full name), being an appointed

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Signed

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Date

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