

CHAPTER 34:02
BOREHOLES
ARRANGEMENT OF SECTIONS

SECTION

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Proc. 62, 1956,
Cap. 119, 1959,
HMC. Order 1, 1963,
L.N. 84, 1966.

Boreholes in Botswana, and the keeping of records and samples relating thereto.

[Date of Commencement: 19th October, 1956]

1. Short title

This Act may be cited as the Boreholes Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**borehole**" means a well sunk by means of a rig or machinery, and shall not include a well sunk by persons subject to any Botswana customary law, with hand labour only, in any of the tribal territories defined in the Tribal Territories Act or on any of the Barolong Farms;

"**Director**" means the Director of Geological Survey of Botswana.

3. Contractor deemed to be the sinker of a borehole

Where any person contracts to sink or deepen any borehole on land belonging to or occupied by any other person, and the execution of the work is, or is to be, under the control of the contractor, the contractor and no other person shall be deemed for the purposes of this Act to be the person sinking or deepening the borehole.

4. Notice of intention to sink a borehole and keeping records, etc.

(1) Any person who, for the purpose of searching for or abstracting water, proposes to sink a borehole intended to reach a depth of more than 15 metres below the surface or who proposes to deepen any existing borehole of less than 15 metres in depth so as to reach a depth of more than 15 metres from the surface or who proposes to deepen any existing borehole of 15 metres or more in depth or who proposes to sink from headings a borehole intended to reach a depth of more than 15 metres below the surface, shall, before he begins to do so, give to the Director notice in writing of his intention to do so; and shall keep on a form provided by the Director a record of the progress of the work which shall include measurements of the strata passed through and of the levels at which water is struck and subsequently rests.

(2) Any such person shall further keep in containers to be supplied by the Director adequately labelled samples of the superficial deposits and strata passed through taken at every change of formation or in uniform formations at three metres.

5. Inspection by geological survey

At any time during the sinking or deepening of any borehole and within one year of the

completion thereof any person who produces some duly authenticated document giving the Director's authority for such purposes shall be entitled at all reasonable times-

- (a) to have free access to any such borehole;
- (b) to inspect the borehole and the material excavated therefrom;
- (c) to take specimens of such material and of water or samples abstracted from the borehole;
- (d) to make a pump-test at the expense of Government; and
- (e) to inspect and take copies of or extracts from the record to be kept under section 4.

6. Results of pump-tests to be reported

The person sinking or deepening any such borehole shall inform the Director in writing of the result of any pump-test made by himself or under his direction.

7. Completion or abandonment of a borehole

The person sinking or deepening any such borehole shall within 10 days of the completion or abandonment of the work send a complete copy of the record together with the adequately labelled samples required to be kept under section 4 to the Director.

8. Special provisions in respect of tribal territories

Where any borehole that is sunk or deepened or proposed to be sunk or deepened is situate within any of the territories described in the Tribal Territories Act or on the Barolong Farms the person on whom the duties prescribed in sections 4, 6 and 7 are imposed on each occasion that he sends a written communication or document to the Director in pursuance of the said duties shall send a copy thereof to the District Council having jurisdiction in such area.

9. Records may be treated as confidential except those relating to water

The owner of any land on which a borehole is sunk or any person having title to the mineral rights thereof may give notice in writing within one month of the completion of the borehole to the Director requiring him to treat as confidential any copy of or extract from the record required to be kept under section 4 or any specimen taken under that section and the Director shall thereupon not allow that copy, extract or specimen except in so far as it contains or affords information as to water resources and supplies to be published or shown to any person not being an officer of the Geological Survey unless the person giving the notice consents thereto:

Provided that if at any time the Director gives notice to that person that in his opinion his consent is unreasonably withheld then that person may within three months after the notice is given by the Director appeal to the President but if at the expiration of that period no such appeal has been made or if, after hearing the appeal, the President does not make an order restraining the Director from doing so the Director may proceed as if such consent had been given.

10. Penalty for failing to fulfil obligations

(1) Any person who fails to comply with any obligations imposed on him by the provisions of sections 4, 6, 7 and 8 or obstructs any person exercising any right in terms of section 5 shall be guilty of an offence and liable to a fine not exceeding P100.

(2) Any person who wilfully falsifies any record which he is required by this Act to keep or who mixes or causes to be mixed with any sample which he is required by this Act to keep any substance whatsoever that will in any way change the nature of the said sample shall be guilty of an offence and liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding five years, or to both.