

**CHAPTER 62:01**  
**TEACHING SERVICE**  
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Act 26, 1975,  
S.I. 24, 1976,  
Act 11, 1983,  
Act 1, 1996.

**An Act to provide for the establishment of a Teaching Service which shall be the sole employer of certain teachers and for matters connected therewith and incidental thereto.**[*Date of Commencement: 1st April, 1976*]

**PART I**  
***Preliminary (ss 1-2)***

**1. Short title** This Act may be cited as the Teaching Service Act.

**2. Interpretation**

In this Act, unless the context otherwise requires-

"**aided post**" means any post in a private school in respect of which, in the opinion of the Minister, the salary attached to the post should be paid, wholly or partly, from public funds and the holder of the post should be employed by the Teaching Service;

"**appointing authority**" means the Director and includes any person to whom he has delegated his powers under section 6;

"**Commission**" means the Teaching Service Commission established under section 26;

"**contract terms**", in relation to a teacher, means a qualified teacher engaged on contract;

"**Director**" means the Director of the Teaching Service appointed under section 5;

"**Government school**" means a school managed by the Ministry of Education;

"**local authority school**" means a registered school managed by a local education authority and in respect of which the Minister has approved the number and grade of teachers to be employed therein;

"**permanent terms**", in relation to a teacher, means a qualified teacher appointed on permanent terms, whether on probation or not;

"**post**" means any post established in a school for the purpose of enabling a person to impart regular or part-time instruction to pupils or any post of responsibility in a school to which is attached a higher salary scale or allowance or any other post established under this Act;

"**private school**" means a registered school which is not a Government or a local authority school;

"**qualified teacher**" means a teacher who possesses such teaching qualifications as may be prescribed;

"**registered school**" means a school registered under the Education Act;

"**teacher**" means any person employed in a post in a Government or local authority school or in an aided post or in any other post either on a full or part-time basis and possessing such qualifications as may be prescribed;

"**temporary terms**", in relation to a teacher, means not employed on permanent or contract terms;

"unqualified teacher" means a teacher who does not possess the prescribed teaching qualifications but who possesses such educational qualifications as may be approved under the Act.

## **PART II** **Application (s 3)**

### **3. Application**

(1) The provisions of this Act shall apply to all teachers employed in Government and local authority schools and in aided posts in private schools, including any school in respect of which a local education authority is the employer.

(2) The Minister may, by order published in the *Gazette*, prescribe other classes of teachers to which the provisions of this Act shall apply.

## **PART III**

### **Administration and Appointments to the Teaching Service (ss 4-12)4. Head of Teaching Service**

(1) The Permanent Secretary to the Minister for the time being responsible for education shall be the head of the Teaching Service and shall be responsible for the administration of the Teaching Service.

(2) The Permanent Secretary to the Minister for the time being responsible for education may define, and incorporate in a code of regulations, terms and conditions of service and rules of conduct for teachers, which shall be complied with by all teachers.

**5. Director of Teaching Service** There shall be a Director of the Teaching Service, who shall be a public officer, and who shall, subject to the directions of the Permanent Secretary to the Minister for the time being responsible for education, be responsible for the following matters, namely-

- (a) the assessment and approval of teaching qualifications;
- (b) conditions of appointment and terms of service;
- (c) recruitment, posting, transfer and promotion of teachers;
- (d) administration, structure and assessment of salaries;
- (e) administration of the code of regulations;
- (f) staff complements and gradings;
- (g) discipline, administrative arrangements for in-service training, and welfare;
- (h) localization and staff development programmes;
- (i) the approval and administration of schemes of service;
- (j) staff inspections and organization and methods;
- (k) preparation of estimates relating to the administration of the Teaching Service;
- (l) allowances and the policy with regard to gratuities;
- (m) personnel statistics;
- (n) liaison with local authorities and school managers in connection with the employment of Teaching Service teachers;
- (o) liaison with any professional body representing teachers;
- (p) such other matters as may be prescribed.

**6. Terms and conditions of Teaching Service** (1) The power to appoint teachers in the Teaching Service, to exercise disciplinary control over them and to remove from office in the Teaching Service, shall rest in the Director in accordance with this Act and in any regulations made thereunder:

Provided that in respect of heads of post primary schools such powers shall only be exercised with the consent of the Minister.

(2) The Director may, with the consent of the Minister, by directions in writing, delegate any of his powers under this section in respect of the employment of teachers on temporary terms to any public officer for the time being responsible for the supervision and administration of any school concerned not below the rank of Assistant Education Officer, but, notwithstanding any such delegation, the Director may vary or set aside any decision made by such public

officer in the exercise of his delegated powers.

## **7. Criterion for appointment**

(1) In selecting candidates for appointment an appointing authority shall have regard primarily for the efficiency of the Teaching Service.

(2) Where any post in the Teaching Service is vacant any citizen of Botswana shall, subject to satisfying any scheme of service laying down the qualifications for any such post, be given priority when an appointment to any such post is being considered.

(3) Notwithstanding the provisions of subsection (2), the Permanent Secretary may waive the requirements of a scheme of service if it is in the interests of the Teaching Service to do so.

## **8. Disqualification from appointment**

(1) No person who has been convicted of an offence involving moral turpitude or who has been dismissed from any teaching post or from the public service or from the local government service shall be appointed to a post in the Teaching Service without the approval of the Minister.

(2) No person shall be appointed to any post in the Teaching Service unless he holds such qualifications as have been approved for appointment to that post.

(3) No person who is not a citizen of Botswana shall be appointed to any post in the Teaching Service unless the appointing authority is satisfied that no citizen of Botswana is qualified and suitable for appointment to that post.

(4) No person who is not a citizen of Botswana shall be appointed to any post (other than on transfer or promotion) on permanent terms.

## **9. Probation**

(1) Where any teacher is appointed to any post in the Teaching Service (other than on transfer or promotion) on permanent terms he shall first serve a probationary period of two years.

(2) Where any teacher who is required to serve on probation under this section has previously been employed as a teacher, the period or any part thereof of such service may, in the discretion of the appointing authority, be regarded as service on probation for the purposes of subsection (1).

(3) The period of probation may, at the discretion of the appointing authority, be extended for a period of not more than 12 months to afford the teacher-

- (a) the opportunity of improvement in any respect in which his work or conduct have been unsatisfactory; or
- (b) the further opportunity to pass any examinations which are a condition precedent of appointment.

(4) Where the appointing authority is of the opinion that a probationary period shall be extended or terminated it shall, before extending or terminating such appointment, advise the teacher in writing of its intention and inform such teacher of his right to make representations thereon within 21 days.

(5) Notwithstanding anything contained in this section, but subject to the giving of notice as prescribed in subsection (4), an appointing authority may terminate a probationary appointment at any time without assigning reasons therefor.

(6) A teacher whose probationary appointment is terminated or not continued, may appeal against such termination or non-continuance to the Permanent Secretary, whose decision thereon shall be final.

(7) Notwithstanding anything contained elsewhere in this section or in any other written law, if a teacher on probation is not informed in writing that his probationary appointment is terminated within six months after the end of the probationary period, it shall be presumed that he has been confirmed in the post concerned.

(8) Nothing in this section shall be deemed to affect the termination of service of a

teacher on probation in accordance with any provision in this Act or any regulations made thereunder relating to disciplinary action.

#### **10. Promotion**

(1) Where a teacher is, on or after the coming into operation of this Act, promoted to a post to which is attached a higher salary scale, the first six months (exclusive of any period of leave) from the effective date of the promotion shall be a probationary period.

(2) Where the appointing authority is of the opinion that such probationary period shall be extended or terminated, the provisions of subsections (2) to (7) inclusive of section 9 shall apply *mutatis mutandis* to such probationary period.

(3) Where the probationary period is terminated in accordance with the provisions of this section the teacher shall revert to his previous grade.

#### **11. Date of promotion**

(1) Where any teacher is appointed to any post on promotion the effective date of his promotion to such post shall, subject to the provisions of subsection (2), be determined by the appointing authority.

(2) The appointing authority shall not fix as a date of promotion a date which is earlier than the latest of the following dates-

- (a) the date upon which the vacancy occurred;
- (b) the date upon which the teacher became qualified for promotion; or
- (c) the date upon which the teacher assumed the functions of the post:

Provided that the appointing authority may, in special circumstances, fix a date of promotion which is earlier than the date mentioned in paragraph (c) but no such date shall be appointed which is earlier than the later of the dates mentioned in paragraphs (a) and (b).

#### **12. Responsibility allowance**

(1) Where any teacher has been or is appointed to a post to which is attached a responsibility allowance or is awarded any responsibility allowance appropriate to the duties he has or is being called upon to perform, the payment of any such allowance shall not be construed as conferring upon the teacher any permanent addition to his salary.

(2) The payment of any such allowance may be terminated in the discretion of the appointing authority when it is considered in the interests of the Teaching Service that the teacher should be relieved of the duties or special responsibilities which entitled him to draw such allowance.

(3) The effective date for the payment of any responsibility allowance shall be calculated in accordance with the provisions of section 11.

### **PART IV**

#### ***Termination of Appointments and Retirements (ss 13-15)***

#### **13. Termination of contract**

If it appears to the appointing authority that the appointment of a teacher serving on contract terms should be terminated in accordance with the provisions of his contract (otherwise than by dismissal), the appointing authority shall advise the teacher in writing that the termination of his contract is under consideration and inform him of his right to make representations thereon within 21 days; on the expiry of the period of 21 days and after considering any representations made by the teacher, the appointing authority shall decide whether or not the contract shall be terminated.

#### **14. Retirement of teachers**

(1) In this section "teacher" means a teacher admitted to permanent terms.

(2) Subject to the provisions of this section, a teacher shall retire from the Teaching Service on attaining the age of 65 years but a female teacher may retire on marriage.

(3) Subject to the provisions of this section, a teacher who has attained the age of 45 years may, in the discretion of the appointing authority and in the interests of the service, be retired from the Teaching Service.

(4) Subject to the provisions of subsection (3), a teacher shall have the right at any time before or after attaining the age of 45 years to give written notification to the appointing authority of his wish to be retired from the Teaching Service, and, if he gives such notification, he shall-

- (a) if such notification is given at least three calendar months prior to the date on which he attains the said age, be so retired on attaining that age; or
- (b) if such notification is not given at least three months prior to the date on which he attains the said age, be so retired on the first day of the fourth month following the month in which the notification is received.

(5) If, in the opinion of the appointing authority, it is in the interests of the Teaching Service to retain a teacher in his post beyond the age at which under this section he is required to retire, such teacher may, if he is so willing, be so retained from time to time by the appointing authority for such periods as that authority may determine.

(6) On the abolition of any Teaching Service post, a teacher holding the same shall, unless transferred by the appointing authority to some other Teaching Service post, be deemed to have retired.

#### **15. Retirement on medical grounds**

(1) Where it appears to the appointing authority that a teacher is incapable by reasons of any infirmity of mind or body of discharging the functions of his post, it may, and shall if the teacher so requests, call upon such teacher to present himself to a medical practitioner nominated by the appointing authority or to a medical board nominated by the appointing authority, with a view to it being ascertained whether or not such teacher is incapable as aforesaid.

(2) After the teacher has been examined by the medical practitioner or the board, as the case may be, the medical practitioner or the board, as the case may be, shall forward the report of the examination to the appointing authority which shall consider the report and any representations which the teacher concerned wishes to make, and the appointing authority shall then decide whether the teacher should be called upon to retire on medical grounds.

### **PART V**

#### **Teachers (ss 16-23)**

#### **16. General duties of teachers**

It shall be the duty of every teacher to aid and assist the school to which he is attached, posted or transferred, to carry out and obey all lawful orders of those persons having lawful authority either over or within that school and to exercise the functions of his post impartially, efficiently and without delay in accordance with the standards of professional conduct expected from teachers so as to promote the education and welfare of the pupils, and the general efficiency of the school.

#### **17. Whole time of teacher at disposal of school**

Unless it is provided in the terms of his appointment or in any other written law-

- (a) every teacher shall place the whole of his time at the disposal of the school to which he is attached, posted or transferred; and
- (b) no teacher may claim as of right additional remuneration in respect of any official duty or work he is required to perform by the Director, an appointing authority or the person in charge of his school.

#### **18. No additional fee for services**

No fee, reward or remuneration of any kind whatsoever, beyond his salary and any allowances paid to him, shall be received and kept for his own use by a teacher for the performance of any service for the Teaching Service or his school unless specifically authorized by law or by the terms of his appointment or by the Director.

#### **19. Salary and allowances not to be ceded**

Subject to the provisions of any written law, no teacher shall, except in the case of payments for the maintenance of his spouse or children, without the written approval of the

Director, cede, assign or transfer the whole or any part of any salary or allowance paid to him.

**20. Publications, interviews, and use of information obtained in performance of duties**

Subject to the provisions of any written law, no teacher shall-

- (a) without the permission of the Director, act as editor of a newspaper, or take part, directly or indirectly, in the management thereof, or publish in any manner anything which may reasonably be regarded as being of a political or administrative nature, but such teacher may publish in his own name other matter relating to subjects of professional or general interest;
- (b) whether on duty or on leave of absence, and except with the permission of the Director, allow himself to be interviewed on questions of or connected with any matter affecting or relating to the management or administration of a school;
- (c) directly or indirectly reveal or use for private purposes any information coming to his knowledge or acquired by him or the nature or contents of any document communicated to him either in the course of his duties or in his capacity as a teacher otherwise than in the proper discharge of his duties as authorized by law or competent authority.

**21. Interdiction**

(1) In this section "supervisory officer" means an appointing authority or any professional officer of the Ministry of Education of the rank of Assistant Education Officer or above having responsibility for supervising schools.

(2) If a supervisory officer considers that disciplinary proceedings should be instituted against a teacher and is of the opinion that such teacher should be interdicted from the performance of his duties pending the taking of proceedings against him, the supervisory officer may suspend such teacher from the performance of his duties for a period not exceeding 30 days and shall make a report of such suspension and the reasons therefor to the Director, who may interdict such teacher from the performance of his duties, and shall decide the amount of salary, being not less than one-half, that should be paid to such teacher during the period of suspension and interdiction.

(3) If a supervisory officer, on becoming aware that criminal proceedings have been instituted against a teacher, is of the opinion that such teacher should be interdicted from the performance of his duties, the supervisory officer may interdict such teacher from the performance of his duties for a period of 60 days and shall immediately report such interdiction and the reasons therefor to the Director; on receipt of such report the Director may revoke, confirm or extend the period of such interdiction and, in the case of confirmation or extension of the period of such interdiction, shall decide the amount of salary, being not less than one-half, that should be paid to such teacher during the period of interdiction.

(4) If the Director, on becoming aware that criminal proceedings have been or are about to be instituted against a teacher or considers that disciplinary proceedings should be instituted against a teacher, is of the opinion that such teacher should be interdicted from the performance of his duties pending the taking of proceedings against him, the Director may interdict such teacher from the performance of his duties and shall decide the amount of salary, being not less than one-half, that should be paid to such teacher during the period of interdiction.

(5) If, as a result of any disciplinary proceedings, a teacher is awarded a punishment less than dismissal, the Director shall decide what proportion of salary withheld, if any, shall be paid to such teacher:

Provided that if no punishment is awarded then the whole of the emoluments withheld shall be paid to such teacher.

(6) If a teacher has been interdicted from the performance of his duties because criminal proceedings have been or were about to be instituted against him, and, after a period of interdiction exceeding six months, such criminal proceedings have not been brought to an end, the Director may terminate the interdiction and such teacher may be reinstated in the Teaching

Service pending the completion of such criminal proceedings.

**22. Withholding of salary** (1) Where a teacher is convicted of a criminal offence and is sentenced to imprisonment, whether such imprisonment takes immediate effect or is delayed pending an appeal, he shall receive no emoluments from the date of such conviction, pending a decision by the Director as to whether any emoluments shall be paid to him during the period of imprisonment and pending the taking of any disciplinary proceedings against him.

(2) Where a teacher is convicted of a criminal offence and is sentenced to a fine or a fine and imprisonment in lieu, and is sent to prison at that time or subsequently for the non-payment of the fine, he shall receive no emoluments from the date of such imprisonment, pending a decision by the Director as to whether any emoluments shall be paid to him during the period of imprisonment and pending the taking of disciplinary proceedings against him.

(3) Where a teacher is convicted of a criminal offence and is sent to prison in any of the circumstances referred to in subsections (1) and (2), the Director may, upon production of a certified copy of the criminal proceedings and of the warrant of committal to prison, dismiss the teacher without instituting disciplinary proceedings against him.

(4) If the teacher appeals against such conviction, his emoluments shall continue to be withheld pending the outcome of the appeal, but if the appeal is successful and the sentence of imprisonment is set aside, he shall, if his services have been terminated, be reinstated with effect from the date of termination, and he shall have repaid any emoluments withheld:

Provided that such setting aside shall not be a bar to disciplinary proceedings being instituted against such teacher arising out of the same facts, but in respect of a different offence under the laws or administrative orders governing the conduct of teachers, if those facts disclose such different offence.

### **23. Surcharge**

Where it appears that any person, who is or was at the relevant time a teacher, has been responsible for a loss or misuse of any moneys placed in his charge, whether temporarily or otherwise, in the performance of his duties, the Director shall, notwithstanding any criminal or disciplinary proceedings which have been or may be instituted against such teacher, request the Permanent Secretary to the Minister for the time being responsible for finance to surcharge such teacher in accordance with the provisions of the Finance and Audit Act.

## **PART VI**

### ***Offences and Penalties (ss 24-25)***

#### **24. Influencing the Director or an appointing authority**

Any person who, otherwise than in the course of his duty, or who, in the course of his duty, improperly, directly or indirectly, by himself or by any other person in any manner whatsoever, influences or attempts to influence the decision of the Director or an appointing authority shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both:

Provided that nothing in this section shall be deemed to make unlawful the giving of any reference or testimonial or the supplying of any information or assistance requested by the Director or an appointing authority.

#### **25. Supplying false information**

Any person who, in connection with the exercise of his functions by the Director or an appointing authority, wilfully gives to the Director or an appointing authority any information which he knows to be false or does not believe to be true or which he knows to be misleading by reason of the omission of any material particular, shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

## **PART VII**

### ***Teaching Service Commission (ss 26-32)***

#### **26. Teaching Service Commission**

(1) There shall be a Teaching Service Commission the membership of which shall be the

same as that of the Public Service Commission established by and as from time to time constituted under the Constitution, and the provisions of section 109 of the Constitution shall apply *mutatis mutandis* to the Teaching Service Commission.

(2) The secretary to the Commission shall be a public officer from the Teaching Service nominated by the Minister.

### **27. Appeals to Commission**

(1) Any teacher who has been removed from office or is subjected to any other punishment by the exercise of any power conferred on the Director or an appointing authority may appeal to the Commission who may dismiss such appeal or allow it wholly or in part.

(2) Every decision of the Commission under the provisions of this section shall be final and shall not be subject to further appeal.

### **28. Protection of members of Commission**

Every member of the Commission shall have such and like protection and privilege in the case of any action or suit brought against him for any act done or omitted to be done in the *bona fide* execution of his duties as is by law given to acts done or words spoken by a judge in the exercise of his judicial office.

### **29. Privilege for communications of Commission**

No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission, or any member or officer thereof, and the Government, or the President, or a Minister, or any officer of the Government, or between any member or officer of the Commission and its chairman, or between members or officers of the Commission in exercise of, or in connection with the exercise of the functions of the Commission, unless the President consents in writing to the disclosure.

### **30. Powers of Commission**

(1) For the performance of its functions the Commission may, where and when material to an appeal-

- (a) inspect offices and school premises;
- (b) examine documents, books or other records;
- (c) obtain information and advice from any person or persons; and
- (d) do all such things, including the taking of evidence on oath and the administration of oaths, as are incidental or conducive to the exercise of the Commission's functions.

(2) The Commission may require any person, whose evidence appears to be material to the determination of any enquiry or investigation conducted by the Commission, to attend at such time and place as may be specified by the Commission to give evidence or produce any document, book or other record in his possession or under his control which relates to the matter in question at any enquiry or investigation.

(3) No person shall be compelled to answer a question the answer to which may render him liable to prosecution on a criminal charge.

(4) Nothing in this section shall be construed as requiring any person to disclose information or produce any document, book or other record, the disclosure or production of which-

- (a) is prohibited or restricted under any written law; or
- (b) is certified in writing by the Minister to be contrary to the public interest.

### **31. Annual report**

The Commission shall, as soon as possible after the end of each calendar year, submit a report to the Minister in respect of the discharge of its functions during that year and the Minister shall lay every such report before the National Assembly.

### **32. Legal representation**

Any person appearing before the Commission shall be entitled to be represented by a legal practitioner admitted to practise in Botswana.

**PART VIII**  
**Miscellaneous (ss 33-34)**

**33. Regulations**

The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for-

- (a) the procedure for making applications for the creation and abolition of posts in local authority and private schools;
- (b) the procedure for notifying and advertising vacancies in the Teaching Service;
- (c) the procedure for the engagement and re-engagement of teachers on contract;
- (d) the procedure for controlling admissions to teacher training courses, and for the employment of persons who complete such courses;
- (e) the procedure for taking disciplinary action against teachers;
- (f) the punishments that may be awarded as a result of disciplinary proceedings;
- (g) the setting up of a body for the purpose of consultation between Government and teachers in the Teaching Service, and the procedure and functions of such body;
- (h) anything in this Act which is to be or may be prescribed.

**34. Repeal and savings**

(1) The Botswana Teaching Service Act is hereby repealed.

(2) Notwithstanding the repeal effected by subsection (1), every contract of service entered into under the repealed Act between a teacher and the Government, or a local education authority or an employer of a teacher whose salary is paid from public funds shall be deemed to have been entered into under this Act between such teacher and the Director, and the provisions of this Act shall apply to any such contract:

Provided that any teacher referred to in this subsection shall not be subject to any condition of service which is less favourable to him than the conditions which applied to him immediately before the commencement of this Act.

(3) A qualified teacher who is not a citizen of Botswana and who was employed as a teacher immediately before the commencement of this Act may elect to convert his appointment on contract terms or temporary terms in accordance with the provisions of this Act and, in the case of a teacher who does not so elect, the provisions regarding the termination of his appointment as set out in his contract of service shall notwithstanding the provisions of this Act, continue to apply.