

PUBLIC SERVICE ACT
(Cap. 26:01)

PUBLIC SERVICE REGULATIONS, 2010
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ARRANGEMENT OF REGULATIONS

PART I — *Preliminary*

REGULATION

1. Citation
2. Interpretation

PART II — *Constitution and abolition of Public Service post*

3. Constitution of office
4. Abolition of office

PART III — *Appointments*

5. Notification of vacancies
6. Advertisement
7. Selection of candidates

PART IV — *General conditions of service*

8. Hours of work
9. Shift work
10. Weekly rest periods
11. Paid public holidays
12. Overtime
13. Annual paid leave

PART V — *Performance management*

14. Performance management tools
15. Performance assessment

PART VI — *General*

16. Revocation of Regulations

PART I — Preliminary

Citation

1. These Regulations may be cited as the Public Service Regulations, 2010.

Interpretation

2. In these Regulations, where the Permanent Secretary is required to report to, notify, furnish or forward evidence or information to the appointing authority, or the supervising officer, as the case may be, and the Permanent Secretary is the appointing authority or supervising officer, the Permanent Secretary shall instead proceed to deal with the matter as such appointing authority or supervising officer.

PART II — Constitution and abolition of public service post

Constitution
of office

3. An application for the constitution of any public service post shall be made to the Director by the Permanent Secretary and the application shall state —

- (a) the title of the post;
- (b) the salary or salary scale to be attached to the post;
- (c) whether the proposed post is to be pensionable;
- (d) the reason the constitution of such post is considered desirable;
- (e) the qualifications required of any holder of the proposed post and the duties which the holder will be required to perform;
- (f) whether or not funds are available to sustain the post; and
- (g) any other matters as the Director may require.

Abolition of
office

4. (1) An application for the abolition of any public service post shall be made to the Director by the Permanent Secretary and shall state the reasons why it is considered desirable that the post should be abolished.

(2) The abolition of a public service post shall be treated as a termination of a contract of employment for the purpose of reducing the size of the workforce in accordance with section 25 of the Employment Act.

Cap. 47:01

(3) Prior to any application for the abolition of a public service post, the Permanent Secretary shall explore alternatives to absorb or redeploy an affected employee to another Department or Ministry before being exited from the public service.

PART III — Appointments

Notification
of vacancies

5. (1) Where a vacancy occurs or is expected to occur in relation to any public service post, the Permanent Secretary shall notify the appointing authority and shall state whether, in the Permanent Secretary's opinion —

- (a) the vacancy should be filled by the promotion or transfer of an officer serving in the Ministry or Department in which the post exists;
- (b) it is likely that a suitable candidate will be found in some other Ministry or Department; or
- (c) it is likely that a suitable candidate will be found by advertisement in Botswana or elsewhere.

(2) Where the Permanent Secretary recommends the promotion or transfer of an officer serving in the Ministry in which the post exists, the Permanent Secretary shall furnish to the appointing authority the record of service of the officer recommended, together with the names of any officer in the Ministry or Department who would be superseded and the Permanent Secretary's reasons for recommending their supersession.

(3) Where the Permanent Secretary is unable to recommend the promotion or transfer of an officer to fill the vacancy, the Permanent Secretary shall report to the appointing authority the names of the officers serving in the cadre or grade from which promotion would normally be made, together with his or her reasons for not recommending those officers for promotion.

(4) When the Permanent Secretary is of the opinion that no suitable candidate is likely to be found by advertisement in Botswana, the Permanent Secretary shall notify the appointing authority of the arrangements which exist for the training of a local officer to fill such office.

(5) An appointment to fill a vacancy through a promotion or transfer shall be based on the competency of the employee.

(6) The Director of Public Service Management shall undertake external recruitment of all employees.

6. (1) Subject to the provisions of subregulation (2) and to any directions of the President, an application for appointment to a vacant post which is pensionable shall be invited by public advertisement in Botswana in a manner determined by the appointing authority.

Advertisement

(2) A vacant post shall not be advertised —

- (a) where the appointing authority is satisfied that the post should be filled by the promotion, transfer, or re-engagement of a serving officer or the continued employment of an officer on temporary terms; and
- (b) where the appointing authority is satisfied that there is no reasonable likelihood of any application being received in response to an advertisement.

7. As between officers having the same degree of preference, qualifications and experience, proven merit and suitability for the office in question shall be given greater weight than seniority.

Selection of
candidates

PART IV — *General conditions of service*

8. (1) An employee shall not be required to work, other than as provided for under regulation 12 (1), more than nine hours in any one working day or a total of 45 hours in any working week of six days, or in the case of a watchman employed solely to watch over any property of the employer, more than 10 hours in any working day or a total of 60 hours in any working week of 6 days.

Hours of work

(2) With the exception of a watchman, an employee shall not be required to work continuously for more than 5 hours without an interval of at least half an hour.

9. (1) An employee whose nature of work requires to be carried on continuously shall be engaged under shift work terms and the periods of such work shall cover day, afternoon and night shifts of 8 hours each.

Shift work

(2) Employers shall determine shift rosters, after consultation with employees' representatives.

(3). In the event of any changes to the rosters, the employer shall give reasonable notice to the affected employees.

(4) An overlap of shift periods not exceeding 30 minutes, may be allowed if necessary for hand-over purposes.

(5) Each shift duty shall attract an inconvenience allowance (commonly known as shift allowance) at a rate agreed by collective agreement.

Weekly rest
periods

10. (1) An employee working on a 5 day week is entitled to a rest period of 2 days in the course of each week.

(2) Where a working week is one of more than 5 days for an employee, the employee is entitled to a rest period of at least 24 consecutive hours in the course of each week.

Paid public
holidays

11. (1) An employer shall treat the following public holidays as paid public holidays —

- (a) New Year's Day;
- (b) the day following New Year's Day;
- (c) Good Friday;
- (d) the day following Good Friday;
- (e) Easter Monday;
- (f) Labour Day;
- (g) Ascension Day;
- (h) Sir Seretse Khama Day;
- (i) President's Day;
- (j) the day following President's Day;
- (k) Botswana Day;
- (l) the day following Botswana Day;
- (m) Christmas Day; and
- (n) Boxing Day.

(2) Nothing shall prevent the treatment of additional public holidays as paid public holidays.

(3) An employee who was on unauthorised leave on a working day immediately prior to, or on a working day immediately following a paid public holiday, shall not be entitled to receive payment for that period of the public holiday that the employee is not required to work, or payment at overtime rate if that employee is required to work, on the paid public holiday.

Overtime

12. (1) Where —

- (a) an employee works for a period in excess of 9 hours in a working day or a total of 45 hours in a working week of 5 days;
 - (b) or in the case of a watchman, any period in excess of 10 hours in a working day or a total of sixty hours in a working week of six days,
- the employee shall be paid an overtime rate of his or her normal hourly rate plus one and a half times the rate he or she would have been paid had the time worked not been overtime.

(2) Subject to regulation 11, where an employee works on any paid public holiday or rest period, the employee shall be paid an overtime rate twice his or her normal hourly rate (otherwise known as "double time".)

(3) Any overtime work required by the employer shall be with the consent of the employee except in the event of urgent business demands or emergencies.

(4) Subregulation (3) shall not apply to any employee engaged under his or her contract of employment at work which requires either long or short hours attendance; but any such employee who works for more than the stipulated aggregate hours in any one month shall be paid in accordance therewith in respect of those hours worked in excess of the average stipulated monthly hours of work.

- (5) Employees referred to in (4) above fall in the following categories —
- (a) teaching and training services;
 - (b) shift workers;
 - (c) field workers,
 - (d) pumpers;
 - (e) gatekeepers; and
 - (f) camp keepers.

(6) Employees in the categories under subregulation (5) shall be paid as follows —

- (a) payment of overtime for all hours in excess of 176 hours in a 5 day week or 22 day month for shift worker;
- (b) payment of overtime for all hours in excess of 198 hours in a 5½ day week or 24 day month for the other categories; and
- (c) payment of overtime for all hours in excess of 208 hours in a 6 day week or 26 day month.

13. (1) An employee who works a normal working week of 5 days is entitled to paid leave at the following rates — Annual paid leave

- (a) for employees on the salary grade C1 and above; 30 working days in respect of each period of 12 months service calculated at the rate of two-and-half working days for every month of service;
- (b) for employees on the salary grade C4 to C2; 25 working days in respect of each period of 12 months service calculated at the rate of 2.08 working days for every month of service.
- (c) for employees on the salary grade B1 and below; 20 working days in respect of each period of 12 months service calculated at the rate of 1.67 working days for every month of service.

(2) An employee on salary grade B1 and below whose normal working week exceeds five days shall be entitled to paid leave at the rate of 24 working days in respect of each period of 12 months service calculated at the rate of 2 working days for every month of service.

(3) In all cases, leave is subject to the requirements of the service.

(4) Any leave balance carried over to the next annual leave cycle will be regulated as follows —

- (a) an employee entitled to 20 working days per annum can carry over a maximum of 9 days leave balance;
- (b) an employee entitled to 24 working days per annum can carry over a maximum of 12 days leave balance; and
- (c) an employee entitled to 30 working days per annum can carry over a maximum of 14 days leave balance.

PART V — Performance management

14. The Director shall put in place such tools as appropriate to be used in the performance of public service employees. Performance management tools

15. Every officer responsible for supervising an employee and for monitoring and assessing the performance of the employee, shall ensure that the performance assessment cycle is adhered to by — Performance assessment

- (a) conducting annual performance appraisals;
- (b) conducting at least two performance reviews in an assessment cycle.

PART VI – General

Revocation of
Regulations

16. The following Regulations are hereby revoked in so far as they are inconsistent with any provision of these Regulations or any collective agreement made in pursuance of the Act —

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| S.I. No. 69 of 1996 | (a) | the Public Service Regulations; |
| S.I. No. 98 of 1969 | (b) | the Teaching Service Regulations; |
| S.I. No. 70 of 1974 | (c) | the Unified Local Government Service Regulations; and |
| S.I. No. 16 of 2006 | (d) | the Tribal Land (Land Board Service) Regulations. |

MADE this 14th day of April, 2010.

LESEGO E. MOTSUMI,
*Minister for Presidential Affairs and
Public Administration.*