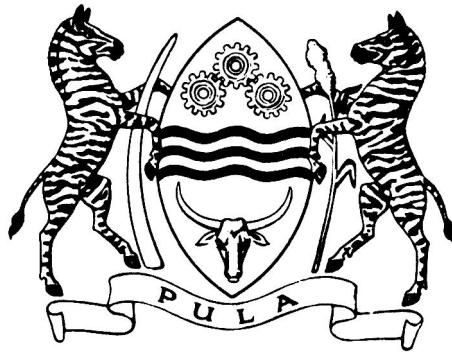


# REPUBLIC OF BOTSWANA



## GOVERNMENT GAZETTE

### EXTRAORDINARY

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Vol. XXXIV, No. 70

GABORONE

14th November, 1996

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The Botswana Government Gazette is printed by the Botswana Government Printer,  
Private Bag 0081, GABORONE, Republic of Botswana.

Annual subscription rates are P45,00 post free surface mail and P93,00 airmail.

The price for this issue of the Gazette (including Supplement) is 45 thebe

*Bill No. 23 of 1996*

**CONSTITUTION (AMENDMENT) BILL, 1996**  
(Published on 14th November, 1996)

**MEMORANDUM**

A draft of the above Bill, which it is proposed to present to the National Assembly, is set out below.

2. The object of the Bill is to amend certain provisions of the Constitution, relating to the franchise by lowering the voting age, the provision for the appointment of an Independent Electoral Commission to supervise the conduct of elections, the provision of merging the offices of the Supervisor of Elections and that of the Local Government Election Supervisor into one, and the provision to enable Botswana citizens resident abroad to register as voters for elections in Botswana.

3. Clause 2 provides for the appointment of an Independent Electoral Commission to oversee elections.

4. Clause 3 amends section 66 of the Constitution by redesignating the Supervisor of Elections as Secretary to the Independent Electoral Commission, and providing that the Secretary shall, subject to the direction of the Independent Electoral Commission, be responsible for the conduct of both Parliamentary and local authority elections.

5. Clause 4 amends section 67 by lowering the voting age to 18 years and also by making provision for the registration, as voters for elections, of Botswana citizens resident abroad.

**P.H.K. KEDIKILWE,**  
*Minister of Presidential Affairs and  
Public Administration.*

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Insertion of section 65A in the Constitution
3. Amendment of section 66 of the Constitution
4. Amendment of section 67 of the Constitution

**A BILL**  
—entitled—

**An Act to amend the Constitution**

*Date of Assent:*

*Date of Commencement:*

**ENACTED by the Parliament of Botswana.**

Short title  
Insertion of  
section 65A  
in the  
Constitution

1. This Act may be cited as the Constitution (Amendment) Act, 1996.
2. The Constitution is hereby amended by the insertion immediately after section 65 thereof, of the following new section —

"Appointment  
of Inde-  
pendent  
Electoral  
Commission

65A. (1) There shall be an Independent Electoral Commission which shall consist of —

- (a) a Chairman who shall be a judge of the High Court appointed by the Judicial Service Commission;
- (b) a legal practitioner appointed by the Judicial Service Commission; and
- (c) five other persons who are fit, proper and impartial, appointed by the Judicial Service Commission from a list of persons recommended by the All Party Conference.

(2) Where the All Party Conference fail to agree on all or any number of persons referred to in subsection (1)(c) of this section up to dissolution of Parliament, the Judicial Service Commission shall appoint such person or persons as are necessary to fill any vacancy.

(3) For the purposes of this section, "All Party Conference" means a meeting of all registered political parties convened from time to time by the Minister.

(4) The first appointments of the Chairman and the Members of the Commission shall be made not later than 31st January, 1991, and thereafter subsequent appointments shall be made at the last dissolution of every two successive lives of Parliament.

(5) The Chairman and the members of the Commission shall hold office for a period of two successive lives of Parliament.

(6) A person shall not be qualified to be appointed as a member of the Independent Electoral Commission if —

- (a) he has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or
- (b) he has been convicted of any offence involving dishonesty in any country.

(7) A person appointed a member of the Commission shall not enter upon the duties of the office of Commissioner until he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by an Act of Parliament.

(8) The Commission shall regulate its own procedure and proceedings.

(9) The Chairman shall preside over all proceedings, and in his absence, the legal practitioner referred to in sub-section (1)(b) shall preside over the proceedings.

(10) The quorum shall be four members, one of whom shall be the Chairman or the said legal practitioner.

(11) All issues shall be decided by the decision of the majority of the members present and voting.

(12) The Commission shall be responsible for —

(a) the conduct and supervision of elections of the Elected Members of the National Assembly and members of a local authority, and conduct of a referendum;

(b) giving instructions and directions to the Secretary of the Commission appointed under section 66 in regard to the exercise of his functions under the electoral law prescribed by an Act of Parliament;

(c) ensuring that elections are conducted efficiently, properly, freely and fairly; and

(d) performing such other functions as may be prescribed by an Act of Parliament.

(13) The Commission shall on the completion of any election conducted by it, submit a report on the exercise of its functions under the preceding provisions of this section to the Minister for the time being responsible for matters relating to such elections, and that Minister shall, not later than seven days after the National Assembly first meets after he has received the report, lay it before the National Assembly."

3. Section 66 of the Constitution is hereby amended by substituting for that section, the following new section —

"Appointment  
of Secretary to  
Independent  
Electoral Com-  
mission

66. (1) There shall be a Secretary to the Independent Electoral Commission referred to in section 65A (in this section referred to as "the Secretary").

(2) The Secretary shall be appointed by the President.

(3) The functions of the Secretary shall, subject to the directions and supervision of the Independent Electoral Commission, be to exercise general supervision over the registration of voters for elections of —

(a) the Elected Members of the National Assembly; and

(b) the members of any local authority,  
and over the conduct of such elections.

Amendment  
of section 66  
of the  
Constitution

(4) A person shall not be qualified to be appointed as Secretary to the Independent Electoral Commission if —

- (a) he is not a citizen of Botswana;
- (b) he has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or
- (c) he has been convicted of any offence involving dishonesty in any country.

(5) A person shall not enter upon the duties of the office of Secretary until he has taken and subscribed to the oath of allegiance and such oath for the due execution of his office as may be prescribed by an Act of Parliament.

(6) For the purposes of the exercise of his functions under subsection (3) of this section, the Secretary may give such directions as he considers necessary or expedient to any registering officer, presiding officer or returning officer relating to the exercise by that officer of his functions under any law regulating the registration of voters or the conduct of elections, and any officer to whom directions are given under this subsection shall comply with those directions.

(7) Subject to the provisions of this section, a person holding office as Secretary shall vacate that office on attaining the age of 65 years or such other age as may be prescribed by an Act of Parliament.

(8) A holder of the office of Secretary may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(9) If the President considers that the question of removing the Secretary ought to be investigated then —

- (a) he shall appoint a tribunal which shall consist of a Chairman and not less than two members who hold or have held high judicial office;
- (b) the tribunal shall enquire into and report on the facts thereof to the President and advise the President whether the Secretary ought to be removed from office under this section for inability to perform the functions of his office or for misbehaviour.

(10) Where a tribunal appointed under subsection (9) advises the President that the Secretary ought to be removed for inability to perform the functions of his office or for misbehaviour, the President shall remove him from office.

(11) If the question of removing the Secretary from office has been referred to a tribunal under subsection (9) of this section, the President may suspend him from performing the functions of his office, and any such suspension may at any time be revoked by the President and shall cease to have effect if the tribunal advises the President that the Secretary ought not to be removed from office."

4. Section 67 of the Constitution is hereby amended —

- (a) by substituting for the provisions of paragraph (b) of subsection (1) thereof, the following new provisions—

"(b) has attained the age of 18 years; and"; and

- (b) by substituting for paragraph (b) of subsection (3) thereof, the following new provisions —

"(b) in the case of a person who does not have a residence in Botswana but is able to register in person, in the constituency in which he last resided, or in which he was born; or

- (c) in the case of a person who is not resident in Botswana and is unable to register in person, at such place as may be prescribed by Parliament and registration at such place shall be treated as registration in the constituency in which he last resided, or in which he was born in Botswana."

Amendment  
of section 67  
of the  
Constitution

L2/4/629 (I)

*Bill No. 24 of 1996*

# CONSTITUTION (AMENDMENT) BILL, 1996

*(Published on 14th November, 1996)*

## MEMORANDUM

A draft of the above Bill, which it is proposed to present to the National Assembly, is set out below.

2. The object of the Bill is to amend certain provisions of the Constitution, relating to tenure of office of President, succession to the office of President in the event of the demise or resignation of the incumbent and the appointment on of the Vice-President; and the qualifying age for standing for election as a Member of the National Assembly.

(3) Clause 2 proposes to amend section 34 of the Constitution to limit the tenure of office of President to a cumulative period of not more than 10 years.

(4) Clause 3 proposes to amend section 35 to provide for an automatic assumption of office of President by the Vice-President in the event of the death or resignation of the President.

(5) Clause 4 proposes that the Vice-President shall be appointed the President, and the appointment shall be endorsed by the Elected Members of the National Assembly.

(6) Clause 5 proposes to amend section 61(b) of the Constitution to lower the qualifying age for standing for election to be elected as a Member of the National Assembly.

P.H.K. KEDIKILWE,  
*Minister of Presidential Affairs  
and Public Administration.*

## ARRANGEMENT OF SECTIONS

### SECTION

1. Short title
2. Amendment of section 34 of the Constitution
3. Amendment of section 35 of the Constitution
4. Amendment of section 39 of the Constitution
5. Amendment of section 61 of the Constitution

### A BILL

—entitled—

**An Act to amend the Constitution**

*Date of Assent:*

*Date of Commencement:*

ENACTED by the Parliament of Botswana.

Short title  
Amendment  
of section  
34 of the  
Constitution

1. This Act may be cited as the Constitution (Amendment) Act, 1996.
2. Section 34 of the Constitution is hereby amended by substituting for that section, the following new section —

"Tenure of  
Office of  
President

34(1) The President shall, subject to the provisions of this section, hold office for an aggregate period not exceeding 10 years beginning from the date of his first assumption of office of President.

(2) The President shall cease to hold the office of President if at any time during his tenure of office any circumstances arise that would, if he were not a member of the National Assembly, cause him to be disqualified for election thereto.

(3) The President shall cease to hold office of President at the expiry of the period prescribed under subsection (1) of this section, or when the person elected at the next election of President following a dissolution of Parliament assumes office."

Amendment  
of section 35  
of the  
Constitution

3. Section 35 of the Constitution is hereby amended by substituting for subsection (1) thereof, the following new subsection —

"(1) Whenever the President dies, resigns or ceases to hold office, the Vice-President shall assume office as President with effect from the date of the death, resignation or ceasing to be President."

Amendment  
of section 39  
of the  
Constitution

4. Section 39 of the Constitution is hereby amended by substituting for subsection (1) thereof, the following new subsection —

"(1) There shall be a Vice-President who shall be appointed by the President from among the Elected Members of the National Assembly who are citizens of Botswana by birth or descent, which appointment shall be endorsed by the said Elected Members."

Amendment  
of section 61  
of the  
Constitution

5. Section 61 of the Constitution is hereby amended by substituting for paragraph (b) thereof, the following new paragraph —

"(b) he has attained the age of 18 years;"