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An Act to provide for the establishment of the National Meteorological Service; to provide for its powers and functions and to provide for related matters.

Date of Assent: 11.05.2009

Date of Commencement: On Notice

ENACTED by the Parliament of Botswana.

PART 1 — *Preliminary*

Short title and commencement

1. This Act may be cited as the National Meteorological Service Act, 2009, and shall come into operation on such date as the Minister may, by Order, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

“commercial services” means any of the following —

- (a) the provision of specialised weather forecasting and climate information services;
- (b) the provision of aviation meteorological services;
- (c) weather and climate related publications;
- (d) meteorological services including advice to the legal and to the insurance industry;
- (e) contracted weather and climate-related research;
- (f) research to improve commercial services;
- (g) the dissemination of weather and climate information;
- (h) the manufacturing and selling of meteorological equipment to Government departments and users from the private sector, as well as the calibration, servicing, repairing and standardisation of equipment falling within the competence of the National Meteorological Service;
- (i) the provision of specialised services to the media; or
- (j) commercial services provided on an *ad hoc* basis to Government departments;

“Director” means the Director of the National Meteorological Service referred to in section 3;

“forecast” means a statement of probable future weather or climate condition within a particular area over a certain time period;

“hydrological phenomena” means those limnological and oceanographical phenomena which are in close relation to the meteorological phenomena;

“Committee” means the Meteorological Licensing Committee established under section 5;

“member” means a member of the Committee and includes the Chairperson of the Committee;

“meteorological data” means any information that determines the state or conditions of the atmosphere as recorded by any meteorological instrument on earth;

“meteorological disasters” means disasters caused by typhoon, rainstorm or snowstorm, cold wave, strong wind sandstorm or dust-storm, low temperature, high temperature, drought, thunderstorm and lightning, hail, frost and fog;

“meteorological instruments” means instruments, machines or devices which are used for the observation of meteorological, terrestrial and hydrological phenomena;

“meteorological phenomena” means phenomena in the atmosphere except the ionosphere;

“meteorological product” means meteorological data processed either manually or by input into a computer;

“meteorological observation” means systematic observation and measurement of the atmospheric physical processes, phenomena and chemical properties in the atmosphere and surface layer by scientific and technological means;

“meteorological service” means service rendered to economic and social activities relating to weather and climate;

“public good services” means any of the following —

- (a) the gathering of meteorological observational data;
- (b) the carrying out of those international obligations agreed under World Meteorological Organisation (WMO) agreements, including the international distribution of data and acting as Regional Instruments Centre;
- (c) the provision of other meteorological services and the representation of Government in the fulfilment of international obligations, where appropriate;
- (d) the provision of weather and climate forecasting and warning services intended for the general benefit of the population and the safety of life and property;
- (e) the provision of daily rainfall and maximum and minimum temperatures data to the general public;
- (f) the custody of the national climatological databank;
- (g) the operation of a national meteorological telecommunication network and computer infrastructure necessary to provide public good services;
- (h) the maintenance of the national meteorological library;
- (i) the provision of advice to Government regarding meteorological and climatological matters;
- (j) the provision of meteorological and functional related training;
- (k) the conducting of research focused on reducing the impact of weather-related natural disasters and on improving the quality of the public good services;
- (l) the provision of meteorological support for aviation and maritime search and rescue activities in accordance with international obligations of the Government;

“Service” means the National Meteorological Service established by section 3 (1); and

“warning” means a forecast to alert that a grave disaster is likely to take place.

PART II — *Establishment and Functions of the National Meteorological Service*

Establishment
of Service

3. (1) There is hereby established a National Meteorological Service which shall consist of a Director, a Deputy Director and such other officers, as may be necessary for the proper performance of its functions.

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(2) The Service shall be a public office and accordingly, the provisions of the Public Service Act shall apply to the Director, Deputy Director and the officers thereof.

Powers and
functions of
Service

4. The functions of the Service shall be to —

- (a) establish, operate and maintain a national network of meteorological observing stations designed to represent various climatic regions of the territory of Botswana and to satisfy the needs of various national development plans and activities;
- (b) collect, process, analyse and archive all meteorological and climatological data from all parts of the country;
- (c) provide public good services and commercial services;
- (d) provide meteorological data and advice on meteorological matters to the general public, individual customers, specialised users and to various sectors for the socio-economic development of the country and people’s well-being;
- (e) provide meteorological services to the military;
- (f) provide, publish and disseminate weather forecasts, analysed meteorological and climatological data and products;
- (g) be exclusively responsible for issuing of warnings of adverse weather conditions such as severe storms, strong winds, heat waves, and other weather conditions likely to endanger life, livelihood and property, including weather conditions likely to give rise to floods, drought, veld fires, pests and diseases and to provide advice concerning natural disaster preparedness and mitigation;
- (h) be exclusively responsible for providing meteorological services, including weather forecasts, to the Civil Aviation Authority established under the Civil Aviation Authority Act;
- (i) exchange meteorological and climatological data in accordance with international agreements or conventions to which Botswana is a party;

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- (j) calibrate instruments and equipment at any privately or publicly run meteorological service in order to ensure that acceptable national and World Meteorological Organisation standards are maintained especially where information generated from such services is for public consumption or commercial purposes;
- (k) operate and maintain the national meteorological telecommunication system connected to the Global Telecommunication System (GTS) of the World Meteorological Organisation (WMO) and the joint telecommunication network of the International Civil Aviation Organisation (ICAO) and the Aeronautical Fixed Telecommunications Network (AFTN);
- (l) regulate the establishment and operation of any privately run meteorological service in order to ensure that acceptable national and World Meteorological Organisation standards are maintained especially where information generated from such service is for public consumption or commercial purposes;
- (m) to develop, update, publish and avail locally and to the conference of the Parties to the United Nations Framework Convention on Climate Change, a national inventory of anthropogenic emission by source and removals by sink of greenhouse gases not controlled under the Montreal Protocol on Substances that Deplete the Ozone layer;
- (n) formulate, implement and publish measures to mitigate climate change and measures to facilitate adequate adaptation to climate change;
- (o) control the use, movement and trading in ozone depleting substances controlled under the Montreal Protocol on Substances that Deplete the Ozone layer;
- (p) ensure that Botswana complies with its obligations under the Montreal Protocol; and
- (q) implement the clean development mechanism under Article 12 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and, among others, register and approve project proposals to assess their ability to meet the set sustainable development criteria.

PART III — *Licensing Committee*

Establishment of Committee	<p>5. (1) There is hereby established a Meteorological Licensing Committee.</p> <p>(2) The Minister shall appoint members of the Committee subject to section 7 (a).</p>
Functions of the Committee	<p>6. The Committee shall —</p> <p>(a) issue licences specified under section 14;</p> <p>(b) keep a register specified under section 16, of all the licences it has issued;</p> <p>(c) monitor the operations of the licensed businesses; and</p> <p>(d) perform such other functions as may be conferred on it under this Act or regulations made under the Act.</p>
Membership of the Committee	<p>7. The Committee shall consist of —</p> <p>(a) the Director who shall be an <i>ex officio</i> member and the Chairperson of the Committee;</p> <p>(b) a representative of —</p> <p>(i) the academic sector,</p> <p>(ii) the Ministry of Minerals, Energy and Water Resources,</p> <p>(iii) the private sector, and</p> <p>(iv) the Ministry of Environment, Wildlife and Tourism.</p>
Tenure of Office	<p>8. A member, other than the Chairperson, shall hold office for a period not exceeding two years and shall, at the end thereof, be eligible for reappointment.</p>
Election of Vice Chairperson	<p>9. (1) At the first meeting of the Committee, the members shall elect a Vice Chairperson who shall hold office for such period, being not less than 12 months, as the Committee may from time to time determine unless he or she ceases to be a member.</p> <p>(2) On the expiry of the term of office of the Vice Chairperson or where the Vice Chairperson vacates his or her office as such, a new Vice Chairperson shall be elected by the members from among their number at the next meeting of the Committee or as soon thereafter as may be convenient.</p> <p>(3) The Vice Chairperson may vacate his or her office as such even though he or she remains a member.</p> <p>(4) The Vice Chairperson shall, whenever the Chairperson is absent or unable to carry out his or her functions, exercise the functions of the Chairperson during the period that the Chairperson is absent or unable to act as Chairperson.</p>
Disqualification, suspension and removal of member	<p>10. (1) A member shall not be appointed as a member or be qualified to continue to hold office where he or she —</p> <p>(a) has in terms of a law in force in any country —</p> <p>(i) been adjudged or otherwise declared bankrupt and has not been discharged; or</p> <p>(ii) made an assignment to, arrangement or composition with his or her creditors, which has not been rescinded or set aside;</p>

- (b) has within the period of 10 years immediately preceding the date of his or her appointment, been convicted —
 - (i) of a criminal offence within Botswana; or
 - (ii) outside Botswana, of an offence which if committed in Botswana, would have been a criminal offence.

(2) The Minister may, in writing suspend from office a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, he or she shall not carry out any duties of the Committee.

(3) The Minister shall remove from office a member if the member —
(a) is absent without reasonable cause from three consecutive meetings of the Committee of which he or she has had notice;

(b) has been found to be physically or mentally incapable of performing his or her duties efficiently, and a medical doctor has issued a certificate to that effect;

(c) has failed to comply with the provisions of sections 12 or 13; or

(d) has been convicted of an offence under this Act, or under any other Act for which he or she is sentenced to imprisonment for a term of six months or more without an option of a fine.

(4) A member may resign from office by giving 30 days notice in writing to the Minister.

11. (1) The Committee shall meet at least three times in a year to discharge its functions.

(2) Upon giving notice in writing of not less than 14 days, a meeting of the Committee may be called by the Chairperson and shall be called if not less than one half of the members so request in writing.

(3) Where the urgency of any particular matter does not permit the giving of notice in accordance with subparagraph (3), a special meeting may be called by giving a shorter notice.

(4) The Chairperson shall preside over meetings of the Committee and if the Chairperson is absent from a meeting, the Vice Chairperson shall preside over that meeting.

(5) The quorum at any meeting of the Committee shall be three members.

(6) The decisions of the Committee shall be by a simple majority of votes, and in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

(7) Subject to the provisions of this Act, the Committee shall regulate its own proceedings.

12. (1) Where a member is present at a meeting of the Committee, at which meeting a matter which is the subject of consideration is one in which he or she is directly or indirectly interested in a private capacity, the member shall, immediately upon the commencement of the meeting, disclose such interest and shall not, take part in any consideration or discussion of, or vote on any question concerning that matter.

(2) A disclosure of interest made in accordance with subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1) and a decision by the Board is made benefitting such a member, such decision shall be void.

Meetings
of the
Committee

Disclosure of
interest

(4) A member who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one year or both.

Confidentiality

13. (1) A member of the Committee shall observe and preserve the confidentiality of all matters coming before the Committee, and such confidentiality shall subsist even after the termination of their terms of office.

(2) Any person to whom confidential information is revealed through working with the Committee shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) Any person who contravenes the provision of this section shall be guilty of an offence and liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one year, or to both.”

PART IV — *Licensing and Registration of Private Operators of Meteorological Services*

Application
for licence

14. (1) No person shall provide such meteorological services as may be prescribed, unless such person holds a licence issued under this Act.

(2) An application for a licence to provide meteorological services shall be —

- (a) made on such form as may be prescribed; and
- (b) accompanied by such fee as may be prescribed;
- (c) forwarded to the Committee through the Director.

(3) The Committee may, upon receipt of an application under subsection (2), issue to the applicant a licence to establish a meteorological service.

(4) A licence issued under subsection (3) shall be valid for such period as may be stipulated therein, and shall be subject to renewal within one month of its expiry.

(5) A licence issued under subsection (3) may be granted subject to such conditions and restrictions as the Committee may consider appropriate, which conditions may be endorsed on such licence.

(6) The Committee may, on written application of any licensee, waive or vary any condition endorsed on his or her licence.

(7) Any person who operates a meteorological service without a licence shall be guilty of an offence and liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one year, or to both, and for a second or subsequent offence to a fine not exceeding P 10 000, or to imprisonment for a term not exceeding two years, or to both.

Revocation,
suspension
and
endorsement
of licence

15. (1) Where any person contravenes any provision of this Act or fails to comply with any requirement of the Committee under any provision of this Act, or where the Committee is satisfied that the conditions of any licence are not being adhered to, the Committee may revoke, suspend or impose further conditions upon such licence.

(2) No revocation, suspension or imposition of further conditions upon a licence shall be made by the Committee until the person concerned has, by notice in writing, been given the opportunity, by the Committee, to rectify that contravention or failure, or to show cause within such time as may be specified from the date of such notice, why the licence should not be revoked, suspended or have further conditions imposed thereon.

16. (1) The Minister shall appoint an Appeals Committee which shall consist of five members drawn from varied backgrounds, at least one of whom shall be a meteorologist.

Appeals
Committee

(2) The members of the Appeals Committee shall elect, from among their number, a Chairperson.

(3) A person aggrieved by the Licensing Committee's decision —

- (a) not to issue or renew a licence;
- (b) not to transfer a licence;
- (c) to suspend a licence; or
- (d) to revoke a licence,

may appeal, in writing, to the Appeals Committee within 30 days of notification of the decision.

(4) The provisions of sections 12 and 13 relating to disclosure of interest and confidentiality respectively, shall apply, with the necessary modifications to the members of the Appeals Committee.

17. (1) The Committee shall, after licensing a person to operate a meteorological service under section 14 (3), register such a person as an operator of a meteorological service.

Register to
be kept

(2) The Director shall remove from the register any person —

- (a) whose licence has been revoked or suspended under this Act; or
- (b) who has requested that his or her name be removed from the register by virtue of having ceased to operate a meteorological service.

(3) The register under this section shall be open for inspection by members of the public.

PART V — *Miscellaneous*

18. The Minister may appoint officers of the Service as inspectors for the purposes of conducting inspections and gathering information from weather stations, whether it be in furtherance of an investigation carried out under this Act or for purposes of collection of data.

Appointment
of inspectors,

(2) An inspector may inspect the premises of any manufacturing enterprise at any time, and any person at such premises shall assist such inspector in the performance of his or her duties.

(3) Any person who obstructs or in any way prevents an inspector from conducting an inspection or from obtaining any information he or she requires shall be guilty of an offence and liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one year, or to both.

Intellectual
property
rights

19. (1) The Service retains the intellectual property rights on any data, meteorological and advisory services, computer programmes, inventions, discoveries and improvements generated by the Service in the fulfilment of its functions.

(2) Any meteorological service provided by the Service to a client or customer shall not be provided by that client or customer to a third party or be distributed without the written consent of the Director.

(3) Any use of material by way of publication, including radio, television or other medium, shall acknowledge the contribution of the Service.

Limitation
of liability

20. The Service is not liable for any damage, loss or injury sustained by any person as a result of his or her reliance on the meteorological information provided by the Service.

Offences and
penalties

21. (1) Any person who —

- (a) forges a licence;
- (b) forges any document for the purpose of obtaining a licence; or
- (c) alters or erases any part of a licence or any entry lawfully made thereunder,

shall be guilty of an offence and liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding two years, or to both.

(2) Any person who —

- (a) publishes and distributes data without written consent of the Service or acknowledgment of the contribution of the Service; or
- (b) refuses to submit data to the Service, shall be guilty of an offence and liable to a fine not exceeding P20 000, or to imprisonment for a term not exceeding four years, or to both.

Regulations

22. The Minister may make regulations providing for any matter which is required to be prescribed or 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 —

(a) prescribe —

- (i) the calibration of meteorological instruments and equipment at any privately run meteorological and climatological observatory station,
- (ii) the manner in which warnings are to be made,
- (iii) the manner in which meteorological information and data is to be displayed and kept,
- (iv) the manner in which data is to be submitted to the Service,
- (v) the installation of meteorological instruments, and
- (vi) forms, fees and charges required to be prescribed under this Act; and

(b) provide —

- (i) for the establishment and operation of privately run meteorological observation stations,
- (ii) for the authorisation of the use of new observing network elements, for example, stations, posts, equipment and closure of existing ones including the change of position of these elements, and

(iii) for the protection of the meteorological observation stations situated on private land.

23. A person who at the commencement of this Act is operating a meteorological service shall bring such service in conformity with this Act within 6 months of the commencement of this Act. Transitional provisions

PASSED by the National Assembly this 2nd day of April, 2009.

BARBARA N. DITHAPO,
Acting Clerk of the National Assembly.