

CHAPTER 40:02 TOWNSHIPS

ARRANGEMENT OF SECTIONS

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First Schedule
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Proc. 66, 1955,
Cap. 120, 1959,
Law 9, 1961
HMC Order, 1, 1963,
L.N. 84, 1966,
Act 12, 1969,
Act 17, 1969,
Act 14, 1970,
Act 70, 1970,
Act 21, 1975,
Act 22, 1979,
Act 15, 1985,
Act 19, 2004.

An Act to provide for the regulation of cities and townships in Botswana.

[Date of Commencement: 26th August, 1955]

1. Short title

This Act may be cited as the Townships Act.

1A. Interpretation In this Act, unless the context otherwise requires-

"bye-law enforcement officer" means an officer appointed under section 6H;

"bye-law-enforcement unit" means a unit established under section 6G to enforce bye-laws made by a council;

"council" means a city or town council established in accordance with section 4(1)(b); and

"township authority" means an authority established by regulations made under this Act to conduct the affairs of the council concerned and to perform such functions as may be specified in those regulations.

2. Creation of townships

(1) The Minister may, by statutory instrument, make an order declaring any place in Botswana other than a place situated wholly or partly within any Tribal Territory as defined in the Tribal Territories Act or within the limits of the 41 farms known as the Barolong Farms to be a township and may define the limits thereof.

(2) Notwithstanding the provisions of subsection (1) the Minister may-

- (a) where he is of the opinion that the declaration of any place within a Tribal Territory or the Barolong Farms is desirable in order to facilitate the development of the mineral resources of Botswana; and
- (b) after consultation with the District Council of the area where such place is situated, by statutory instrument, make an order declaring such a place to be a township and may define the limits thereof.

3. Creation of cities

The President may, where he considers that it is proper and fitting to confer the status of a city on a township, by statutory instrument declare such township to be a city and it shall have all such rank, liberties, privileges and immunities as are incident to a city, and may define the limits thereof.

4. Establishment of township authorities Regulations may provide for the establishment of-

- (a) a township authority;
- (b)

for any place declared as a township or a city, as the case may be.

5. Matters relating to health and good government

(1) Regulations may make provisions for matters relating to health, order and good government of cities and townships.

(2) Regulations made in pursuance of subsection (1) may-

- (a) provide that such regulations or any part thereof may apply to any city or township;
- (b) make special provision in regard to particular cities or townships; or
- (c) may provide that such regulations may apply to matters or things being or occurring outside the limits of a city or township where the regulation of such matters or thing is in the interest of the health, order or good government of the city or township.

(3) Regulations making provisions for matters relating to health, order and good government of cities and townships may authorize any-

- (a) to establish, maintain and operate abattoirs;
- (b) to establish, maintain and operate beer depots and beer halls;
- (c) with the approval of the Minister, to acquire land by purchase for development for particular purposes and sell such land in serviced lots.

(4) For the purposes of subsection (3) "beer depot" means premises where traditional beer is sold for consumption off the premises and "beer hall" means premises where traditional beer is sold for consumption on the premises.

(5) Regulations may provide for the determination by magistrates of objections to the inclusion of names in voters rolls prepared for elections of members, and of appeals against the cancellation of the enrolment of voters for such elections, and for the determination by the High Court of applications for orders condoning default by candidates in such elections in rendering proper, or any, returns respecting election expenses.

6. Power to make bye-laws (1) A township authority may make bye-laws for the township in respect of which it is established, or any part thereof, in respect of all such matters as it considers necessary or desirable for the maintenance of the health, order and good government of the area in respect of which it is established, and, without prejudice to the generality of the foregoing, make bye-laws for all or any of the purposes set out in the First Schedule hereto, and for setting service and user fees for services set out in the Second Schedule.

(2) A council may make bye-laws for-

- (a) the regulation and control of abattoirs established under section 5(3)(a) hereof, and fixing fees, charges and tariffs in connection therewith; and
- (b) the regulation and control of beer depots and beer halls established under section 5(3)(b) hereof, and fixing prices, fees and charges in connection therewith.

(3) The bye-laws referred to in subsection (2) may prescribe what licences or permits may be required thereunder and may lay down the fee to be paid therefor, and may also prescribe the fees to be paid for any services rendered by the council.

6A. Bye-laws to be submitted to Minister All bye-laws made by a council shall be submitted to the Minister for his approval, and no bye-laws shall be of any force or effect until the Minister has approved them and caused them to be published in the *Gazette*.

6B. Miscellaneous provisions regarding bye-laws (1) The substance and effect of all bye-laws which are to be submitted to the Minister for approval shall, not less than four weeks before such submission, be communicated to the inhabitants of the council area affected by posting notices on notice boards in the council area, and by publication thereof at such public meetings as the council may determine.

(2) A copy of all bye-laws shall be kept by the council which made them in such manner as the Minister may prescribe, and any member of the public shall be entitled to a copy of such bye-laws upon payment of such fee as the council may determine.

6C. Penalties in bye-laws (1) Bye-laws may-

- (a) prescribe a penalty for any contravention thereof which shall not exceed a fine of P5000 or imprisonment for 2 years, or both such fine and imprisonment;
- (b) prescribe different fines and different terms of imprisonment for successive or continuous contraventions; and
- (c) authorize any court on conviction of any person for contravention of bye-laws to suspend or cancel any licence or permit issued to such person under such bye-laws.

(2) Bye-laws may provide that where a court convicts any person for any contravention thereof, or for failure to comply therewith, such court may, in addition to imposing any penalty prescribed therefor, order that any expense incurred by the council in consequence of the breach thereof, or caused by the failure of the offender to execute any work which he is directed thereby to execute, shall be paid by the convicted offender.

6D. Bye-laws not to override other laws Nothing contained in this Act shall be deemed to empower a council to make any bye-law overriding or derogating from the provisions of any other written law in force in Botswana.

6E. Minister may suspend bye-laws If, at any time in the opinion of the Minister, it is in the interest of good local government or the maintenance of good order and security of the

council area or part thereof for which a council has been established, or of Botswana, that the operation of any bye-laws made by a council should be suspended, the Minister may, by order published in the *Gazette*, suspend such bye-laws for a period not exceeding 60 days and for the like period may transfer the powers of the council relating to such bye-laws to any person.

6F. Minister may make or amend bye-laws The Minister may make any bye-law which a council could make and may amend or revoke any bye-laws made by a council, if he considers the matter to be of importance and in the public interest:

Provided that he has requested the council, in writing, to make such a bye-law or amendment or revocation, and the council has not complied with such request at its first meeting after such request has been received.

6G. Bye-Law enforcement units There shall be a bye-law enforcement unit in every council to enforce bye-laws made by the council.

6H. Bye-law enforcement officers (1) A bye-law enforcement unit shall consist of such number of bye-law enforcement officers as a council may determine and appoint.

(2) A council shall furnish every person appointed as a bye-law enforcement officer with an identity card stating that such person is duly appointed by the council for the purposes of enforcing bye-laws and such identity card shall be *prima facie* evidence of such appointment.

6I. Powers of arrest (1) A bye-law enforcement officer may, without a warrant, arrest a person if he reasonably suspects that that person has contravened or is contravening a bye-law.

(2) A bye-law enforcement officer may use such force as is reasonable in the circumstances in effecting an arrest under this section; and for the purpose of effecting an arrest, enter and search any premises or place if he has reason to believe that there is in the premises or place a person who is to be arrested.

(3) A bye-law enforcement officer shall not enter any premises or place unless he has first stated that he is a bye-law enforcement officer and the purpose for which he seeks entry and produced his identity card to any person requesting its production.

6J. Powers and search and arrest (1) Where a bye-law enforcement officer has arrested a person under section 6I, he may-

- (a) search that person and the premises or place in which he was arrested; and
- (b) seize and detain anything which he has reason to believe to be or to contain evidence of any contravention of a bye-law.

(2) A bye-law enforcement officer shall only search a person of the same sex as he.

6K. Procedure after arrest A bye-law enforcement officer shall take any person arrested under section 6I as soon as is practicable to a police station to be dealt with in accordance with the Criminal Procedure and Evidence Act.

6L. Search with warrant (1) If it appears to a bye-law enforcement officer that there are reasonable grounds to believe that there is in any premises or place anything which is or contains evidence of contravention of a byelaw, he may make an application on oath to a magistrate for a warrant to search such premises or place.

(2) If a magistrate to whom an application is made under subsection (1) is satisfied that there are reasonable grounds for suspecting that there is in the premises or place referred to in subsection (1), anything which is or contains evidence of a contravention of a bye-law, he may issue a warrant directing the bye-law enforcement officer to enter and search such premises or place and seize and detain anything which the bye-law enforcement officer has reason to believe to be or to contain evidence of any contravention of a bye-law.

6M. Search without warrant in certain cases (1) Where a bye-law enforcement officer has reasonable cause to believe that there is in any premises or place anything which is evidence of a contravention of a bye-law or in respect of which a contravention of a bye-law is about to take place, is being conveyed, or is concealed or contained in any package in the premises or place for the purpose of being conveyed, he may, without warrant, if he considers that the special exigencies of the case so require, enter the premises or place, and search the

premises or place and seize and detain that thing.

(2) The entry and search referred to in subsection (1) shall, as far as possible, be made in the day time and in the presence of two or more respectable inhabitants of the locality in which the entry and search is made.

6N. Exercise of powers of search and seizure In the exercise of the powers of search and seizure under section 6M, a bye-law enforcement officer may use such reasonable force as is necessary in the circumstances, and may be accompanied or assisted by such other persons as he considers necessary to assist him to enter into or upon the premises or place, as the case may be.

6O. Penalty for hindering or obstructing a bye-law enforcement officer Any person who hinders or obstructs a bye-law enforcement officer in the performance of his duties under this Act shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding one year, or to both.

6P. Imposition and collection of fines (1) A bye-law enforcement officer may impose such fines for contraventions of bye-laws as a council may determine:

Provided that any fine determined by the council under this section shall not exceed P5 000.

(2) A council shall directly collect any fines imposed by a bye-law enforcement officer under subsection (1) and such fines shall accrue to the council concerned.

6Q. Collection of debt If any person who has been fined under section 6P fails, within a stipulated period, to pay the fine to the council, the council may recover the fine in a court of law as a civil debt.

7. Rates and fees

(1) Regulations may provide for the fixing and levying of rates on land for municipal purpose.

(2) Regulations made for the fixing and levying of rates-

- (a) . . .
- (b) may provide for the fixing and levying of different rates upon different classes of land;
- (c) may prescribe the procedure for the enforcement of payment of rates and service levies and may empower a township authority to apply to a magistrate's court or the High Court, as the case may be, for the sale of any movable or immovable property of any person in default of payment of assessed rates or service levies in satisfaction for such rates or service levies;
- (d) shall provide that any ratepayer shall be at liberty to object to the assessment of his own or any other land within the township and that an ultimate appeal in all matters respecting assessments and rating shall be provided to the High Court.

(3) A township authority may by bye-law-

- (a) fix and levy rates on land for municipal purposes; and
- (b) fix fees, charges and tariffs for such services as may be provided by the township authority.

7A. Powers of township authority to set service and user fees by resolution A township authority may, by resolution, set service and user fees for services set out in the Third Schedule hereto.

7B. Powers of Minister to amend Schedules The Minister may, by statutory instrument, amend the Schedules hereto.

8. Penalties

(1) Regulations or bye-laws may prescribe penalties for any breach thereof, but no such penalties shall exceed a fine of P5000, or, in default of payment thereof, to imprisonment for a term not exceeding 2 years, or such imprisonment without the option of a fine or both such fine and imprisonment.

(2) Such regulations or bye-laws shall specify what punishment may be imposed for

each offence thereby created.

9. Regulations

The Minister may, by statutory instrument, make regulations providing for any matter which under this Act is to be provided for by regulations or which otherwise relates to the administration of cities and townships.

10. Saving

No regulation made in terms of section 9 shall be deemed to prohibit the owner of any mineral concession over land within the limits of a township, or any person employed by such owner for the purposes of the concession from the reasonable exercise of the rights held under such concession.

FIRST SCHEDULE (Section 6(1))

POWER TO MAKE BYE-LAWS

1. For the better carrying into effect of any function conferred on the council in terms of regulation 28 of the Town Council Regulations as read with the First Schedule thereof.
2. To control common lands and pastures.
3. To control common markets.
4. To control recreation grounds, parks and other public places.
5. To control stockyards, pens and dipping tanks.
6. To control cemeteries and burial grounds.
7. To control or prevent advertising, dangerous trades, nuisances, noises and street collections.
8. To regulate, control and license laundries.
9. To regulate, control and license the brewing, distribution and sale of traditional beer.
10. To license bicycles.
11. To fix and levy rates upon land, which may include different rates upon different classes of land, for municipal purposes.
12. To regulate and control abattoirs established by the council and to fix fees, charges and tariffs in connexion therewith, which may include charges for the inspection of carcasses.
13. To regulate and control premises on which traditional beer is sold or otherwise handled which have been established by the council, and to fix prices, charges and tariffs in connection therewith.

SECOND SCHEDULE (Section 6(1))

Services for which service and user fees shall be set by bye-law:

- | NO. | SERVICES |
|-----|------------------------------------|
| 1. | Abattoir services |
| 2. | Certificates of rights conversions |
| 3. | Clinical services |
| 4. | Matimela or pound services |
| 5. | Property rates services |
| 6. | School services |
| 7. | Issuing of trade licences |

THIRD SCHEDULE (Section 7A)

Services for which service and user fees shall be set by resolution of a township authority:

- | NO. | SERVICES |
|-----|--|
| 1. | Advertising signs |
| 2. | Cemetery services |
| 3. | Community services |
| 4. | Day care centre services |
| 5. | Hiring of classrooms |
| 6. | Provision of markets or factory shells |
| 7. | Pest control services |
| 8. | Plan perusal and building control services |
| 9. | Plant hire services |
| 10. | Refuse removal services |
| 11. | Road reinstatement services |
| 12. | Sanitation services |
| 13. | Septic tank emptying services |

- 14. Sewer connection services
- 15. Sewerage services
- 16. SHHA services
- 17. Shrub and plant sale services
- 18. Stadia sport facilities
- 19. Staff house rentals
- 20. Stock sales commission
- 21. Surveys and plans services
- 22. Leasing of boreholes
- 23. Water connection services