

CHAPTER 43:08
CONTROL OF GOODS, PRICES AND OTHER CHARGES
ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
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Act 23, 1973,
Act 6, 1979,
Act 27, 1980.

An Act to enable the Minister to provide by regulations for the control of the distribution, disposal, purchase and sale, the standards and marking, and the wholesale and retail prices, of goods, whether manufactured or not, or of any class of such goods, for the control of exports from and imports into Botswana, for the control of certain charges and for purposes incidental thereto and connected therewith.

[Date of Commencement: 23rd November, 1973]

1. Short title

This Act may be cited as the Control of Goods, Prices and Other Charges Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"goods" means anything capable of being bought or sold, whether manufactured or not.

3. Regulations

(1) Whenever it appears to the Minister necessary or expedient to control-

- (a) the import or export of any goods;
- (b) the distribution, disposal, purchase and sale, or the wholesale or retail prices of any goods and the charges which may be made-
 - (i) for services relating to the distribution, disposal, purchase and sale of such goods; and
 - (ii) for delivery of any goods, the wholesale or retail prices of which are controlled under this section;
- (c) the supply of any goods whether to wholesalers, retailers or to any other person;
- (d) the quality and standards of any goods;
- (e) the marks and descriptions to be affixed to any goods;
- (f) the display of prices on any goods offered for sale;
- (g) the charges which may be made for or in connection with the servicing, maintenance, repair or alteration of goods,

he may make such regulations as appear to him to be necessary or expedient for such purposes.

(2) Without prejudice to the generality of the powers conferred by subsection (1), such regulations may provide for-

- (a) requiring persons carrying on or employed in connection with any trade, business, undertaking or enterprise specified in such regulations to produce to such person as may be specified any books, accounts or other documents relating to that trade, business, undertaking or enterprise, and for requiring any person to furnish to such persons as may be specified such estimates or returns as the Minister considers it desirable to obtain for the effectual exercise of any of his powers under this section;

- (b) the licensing of importers and exporters whether in respect of specific goods or classes of goods or generally;
- (c) the rationing of any goods and for-
 - (i) fixing or providing for fixing different quantities of such goods to be obtainable in the aggregate or individually by different classes of persons; and
 - (ii) providing for methods of distribution of such goods which differentiate as between different classes of persons so far as appears to the Minister to be necessary in order to secure or permit such distribution through the usual channels and agencies through which such classes of persons normally obtain such goods;
- (d) the imposition of a levy on such items of goods as may be specified and the manner of utilizing such levy;
- (e) the detention of and forfeiture to the Government of any goods in respect of which an offence under such regulations has been committed; or
- (f) any incidental and supplementary matters for which the Minister thinks it expedient for the purposes of the regulations to provide, including in particular the entering and inspection of premises to which the regulations relate by persons authorized in that behalf by the Minister with a view to securing compliance with the regulations.

(3) Regulations made under this section may be made so as to apply generally or to any particular trade, business, undertaking or enterprise, or class thereof, or class of persons, and either to the whole or to any part of any trade, business, undertaking or enterprise, and so as to have effect either throughout Botswana or in any particular area therein.

4. Evidence

(1) In any proceedings under this Act against any person, any statement or entry contained in any book or document kept by him or any person in his employ, or by his agent, shall be admissible in evidence as an admission of the facts set forth in that statement or entry, unless it is proved that the statement or entry was not made by that person, by any person in his employ, or by his agent.

(2) Whenever the manager, agent or servant of any person does or omits to do anything which it would be an offence under regulations made under this Act to do or omit to do, such person shall be deemed himself to have done or omitted to do such thing and be liable to the penalties therefor in terms of this Act unless he proves to the satisfaction of the court that all reasonable steps were taken by him to prevent any act or omission of the kind in question:

Provided that the fact that that person issued instructions forbidding in respect of his manager, agent or servant any act or omission of the kind in question shall not by itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(3) In any prosecution involving the unlawful importation or exportation of any goods, the burden of proving that due permission authorizing the importation or exportation of such goods has been obtained shall lie upon the accused.

5. Penalties

Any person who contravenes or fails to comply with any regulation made under this Act shall be liable-

- (a) for a first offence, to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P400 or to imprisonment for a term not exceeding one year, or to both.

CHAPTER 47:02

EMPLOYMENT OF NON-CITIZENS

ARRANGEMENT OF SECTIONS

SECTION

1. Short title

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5. Applications for work permits and renewals thereof and determination of same
6. Form and terms of and conditions attached to work permits
7. Appeals in connection with work permits
8. Cancellation and compulsory variation of work permits
9. Work permits to be returned on expiry
10. Exemption from section 4(1)
11. Appeals in connection with certificates of exemption
12. Cessation of validity of certificates of exemption
13. How to keep work permits or certificates of exemption
14. Power of officers to require production of work permits and certificates of exemption
15. Power of officers to examine persons in possession of work permits or certificates of exemption as to identity
16. Work permits and certificates of exemption to be returned before final departure from Botswana
17. Replacement of work permits and certificates of exemption
18. Returns by employers of holders of work permits or certificates of exemption
19. Registers in respect of work permits and certificates of exemption
20. Minister to give directions in connection with carrying out functions under Act
21. Evidential presumption as to reasonable excuse
22. Regulations
23. Power of exemption of Commissioner of Labour in emergency

Act 11, 1981,
Act 15, 1981,
S.I. 59, 1983,
Act 19, 1992.

An Act to regulate the employment and other engagement in occupations for reward or profit of certain persons who are not citizens of Botswana and provide for matters incidental thereto.

[Date of Commencement: 1st June, 1983]

1. Short title

This Act may be cited as the Employment of Non-Citizens Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"authorized officer" means a person appointed under section 3 to be an authorized officer for the purposes of this Act;

"certificate of exemption" means a certificate of exemption issued under section 10 or a duplicate thereof issued under section 17;

"Commissioner of Labour" means the Commissioner of Labour of Botswana;

"employ" has the same meaning as in the Employment Act;

"non-citizen" means a person other than-

- (a) a citizen of Botswana; or
- (b) a person or a member of a class of persons declared by regulations made under this Act not to be a non-citizen for the purposes of this Act;

"prescribed" means prescribed by regulations made by the Minister under section 22;

"work permit" means a work permit issued under section 5 or a duplicate thereof issued under section 17.

3. Authorized officers

The Minister may appoint from among public officers persons to be authorized officers for the purposes of this Act.

4. Control of employment, etc., of non-citizens

- (1) No non-citizen shall engage in any occupation for reward or profit unless-
 - (a) he is the holder of a work permit issued to him under this Act permitting him to be employed or to engage in and he is employed or otherwise so engaged in accordance with the terms thereof and the conditions, if any, attached thereto; or
 - (b) he is the holder of a certificate of exemption issued to him under this Act.
- (2) No person shall employ a non-citizen unless-
 - (a) the non-citizen is the holder of a work permit issued to him under this Act permitting him to be employed and he is employed in accordance with the terms thereof and the conditions, if any, attached thereto; or
 - (b) the non-citizen is the holder of a certificate of exemption issued to him under this Act.
- (3) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding P1 000 or to imprisonment for a term not exceeding 12 months, or to both.
- (4) Where, in any proceedings for an offence under this section, it is alleged in the charge that an accused or any other person was at a time specified therein a non-citizen, the court shall presume that he was at that time a non-citizen unless the contrary is proved.

5. Applications for work permits and renewals thereof and determination of same

(1) An application for a work permit, or the renewal or the variation of a work permit, may be made by any person and shall be lodged, in such form and manner as the Minister may require, together with the prescribed fee, with an authorized officer, who shall endorse his recommendation on the application form and transmit it to the appropriate Regional Immigrants Selection Board established in accordance with section 18 of the Immigration Act, and hereinafter in this Act referred to as "the Board".

(2) For the purpose of making his recommendation in accordance with subsection (1), the authorized officer may require any person to submit immediately to examination or to present himself to him, at such time and place as shall be specified, and at that time and place submit to examination.

(3) Any person who has been required to submit to examination under subsection (2) may be examined by the authorized officer in question, and shall answer truthfully, and to the best of his knowledge, every question put to him for the purpose of making the required recommendation.

(4) The Board shall consider every application put before it under subsection (1), and shall, as the case may be, either issue a work permit, renew the existing work permit, approve the variation of the work permit, wholly or in part, or reject the application, in which last case the authorized officer shall inform the applicant in writing of the Board's decision.

(5) For the purpose of determining an application placed before it in accordance with subsection (1), the Board may call for and obtain such additional information relating to the application as it thinks it is necessary or expedient to have.

(6) For the purpose of determining an application placed before it in accordance with subsection (1), the Board shall take into account-

- (a) the effect of issuing a work permit or renewing the existing work permit upon the opportunities for employment or for other engagement for reward or profit in the occupation in question, as the case may be, open to citizens of Botswana; and
- (b) where the application relates to employment, the arrangements made or to be made by the employer to train a citizen of Botswana to replace the person in respect of whom the application is made in the event of a work permit being issued to him or his existing work permit being renewed.

(7) For the purpose of determining an application placed before it in accordance with subsection (1), no quorum of the Board shall be constituted unless one of the members present

is the Commissioner of Labour or some other public officer directly subordinate to him.

(8) Any person who-

- (a) fails to comply with a requirement made of him under subsection (2) 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; or
- (b) contravenes subsection (3) or, in connection with an application under this section of a work permit or for the renewal of a work permit, furnishes any information which he knows to be false or does not believe to be true shall be guilty of an offence and liable to a fine not exceeding P1 500 or to imprisonment for a term not exceeding 18 months, or to both.

6. Form and terms of and conditions attached to work permits

Every work permit-

- (a) shall be issued in such form as the Minister may require and shall be issued or renewed for such period as the Board shall determine, which period shall be specified in the permit, and shall contain such other terms as the Board shall determine; and
- (b) may be issued or renewed subject to such conditions as the Board may determine, which conditions shall be specified in the permit.

7. Appeals in connection with work permits (1) An applicant for a work permit, or the renewal or the variation of a work permit, who is aggrieved by a decision to reject his application or as to any term included in or condition attached to the work permit by the Board, may appeal against that decision or that term or condition to the National Immigrants Selection Board established under section 18 of the Immigration Act and hereinafter referred to as "the National Board".

(2) Every appeal under this section shall be lodged with the National Board, in such form and manner as may be prescribed or as the National Board may require, together with such fee as may be prescribed, not later than 30 days immediately after the day on which the decision complained of was communicated to the appellant.

(3) The National Board shall consider every appeal lodged with it in terms of subsection (1), and shall-

- (a) in the case of a decision to reject an application, either dismiss the appeal or allow it, in which last case it shall forthwith issue a work permit or renew the existing work permit containing such terms and subject to such conditions specified in the permit, as the National Board may determine; or
- (b) in the case of an appeal against a decision as to any term included in or any condition attached to a work permit, either dismiss the appeal or allow it, in which last case the National Board shall rescind the term or condition or amend it, and shall amend the work permit accordingly.

(4) Any person aggrieved by any decision of the National Board may appeal therefrom to the Minister, whose decision thereon shall be final.

8. Cancellation and compulsory variation of work permits

(1) The Minister may at any time by notice in writing served on the holder of a work permit, cancel the work permit or vary the terms thereof or the conditions attached thereto:

Provided that such cancellation or variation shall not take effect until the expiry of seven days, or such greater number of days as the Minister may specify in the notice, immediately after the day on which the Minister's notice was served on the holder of the work permit.

(2) The holder of a work permit on whom a notice of the Minister has been served under subsection (1) shall forthwith transmit his permit to the Commissioner of Labour who shall-

- (a) where the permit is cancelled by the notice, dispose of the permit in such manner as the Minister may direct; or
- (b) where the terms of or the conditions attached to the permit are varied by the notice, endorse every such variation on the permit and forthwith return it to the holder.

(3) The holder of a work permit who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

9. Work permits to be returned on expiry

(1) On the expiry of the period for which a work permit has been issued or renewed, the holder of the permit shall forthwith transmit the permit to the Commissioner of Labour who shall dispose of the permit in such manner as the Minister may direct.

(2) The holder of a work permit who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

10. Exemption from section 4(1)

(1) The Minister may, by order published in the *Gazette*, exempt any person or every member of any class of persons specified therein from section 4(1), subject to the condition that he holds a certificate of exemption issued to him under this Act.

(2) An application for a certificate of exemption may be made by any person and shall be lodged, in such form and manner as the Minister may require, with the Commissioner of Labour.

(3) No fee shall be payable in respect of an application for a certificate of exemption.

(4) The Commissioner of Labour shall consider every application lodged with him in accordance with subsection (2) and shall either issue a certificate of exemption, if he is satisfied that the person in respect of whom the application is made is a person or a member of a class of persons specified in an order under subsection (1), or reject the application, if he is not so satisfied, in which last case he shall inform the applicant in writing of his decision.

(5) For the purpose of determining an application lodged with him in accordance with subsection (2), the Commissioner of Labour may call for and obtain such additional information relating to the application as he thinks it is necessary or expedient to have.

(6) Every certificate of exemption shall be issued in such form as the Minister may require.

(7) Any person who, in connection with an application under this section for a certificate of exemption, furnishes any information which he knows to be false or does not believe to be true shall be guilty of an offence and liable to a fine not exceeding P1 500 or to imprisonment for a term not exceeding 18 months, or to both.

11. Appeals in connection with certificates of exemption

(1) An applicant for a certificate of exemption who is aggrieved by a decision to reject his application may appeal against that decision to the Minister.

(2) Every appeal under this section shall be lodged, in such form and manner as the Minister may require together with the prescribed fee, with the Minister not later than 30 days immediately after the day on which the decision complained of was communicated to the appellant.

(3) The Minister shall consider every appeal lodged with him in accordance with subsection (2) and shall either dismiss the appeal or allow it, in which last case the Commissioner of Labour shall forthwith issue a certificate of exemption.

12. Cessation of validity of certificates of exemption

(1) Where the holder of a certificate of exemption ceases to be a person exempted from section 4(1), whether by revocation of the relevant order under section 10(1) or otherwise, the certificate shall thereupon cease to be valid and the holder thereof shall forthwith transmit the certificate to the Commissioner of Labour who shall dispose of the certificate in such manner as the Minister may direct.

(2) The holder of a certificate of exemption who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

13. How to keep work permits or certificates of exemption

(1) The holder of a work permit or certificate of exemption shall at all times use his best endeavours to keep the same safe and in an undamaged and undefaced condition.

(2) The holder of a work permit or certificate of exemption who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

14. Power of officers to require production of work permits and certificates of exemption

(1) The Commissioner of Labour or an authorized officer may require the holder of a work permit or certificate of exemption or any person claiming to be the holder of such a permit or certificate to produce it for examination by the Commissioner of Labour or by an authorized officer at such time and place as the person making the requirement shall specify.

(2) Any person who, without reasonable excuse, fails to comply with a requirement made of him under subsection (1) 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.

15. Power of officers to examine persons in possession of work permits or certificates of exemption as to identity

(1) The Commissioner of Labour or an authorized officer may require any person in possession of a work permit or certificate of exemption of which he claims to be the holder to submit immediately to examination or to present himself to the Commissioner of Labour or an authorized officer at such time and place as the person making the requirement shall specify and, at that time and place, to submit to examination.

(2) Any person who has been required under subsection (1) to submit to examination may be examined by the Commissioner of Labour or an authorized officer and shall answer truthfully and to the best of his knowledge every question put to him by the Commissioner of Labour or the authorized officer, as the case may be, for the purpose of ascertaining whether he is or is not the holder of the work permit or certificate of exemption in his possession.

(3) Any person who-

- (a) fails to comply with a requirement made of him under subsection (1) 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; or
- (b) contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding P1 500 or to imprisonment for a term not exceeding 18 months, or to both.

16. Work permits and certificates of exemption to be returned before final departure from Botswana

(1) Where the holder of a work permit or certificate of exemption is about finally to leave Botswana, he shall, not less than 14 days immediately before the day of his proposed departure from Botswana, transmit the permit or certificate to the Commissioner of Labour who shall dispose of the same in such manner as the Minister may direct.

(2) The holder of a work permit or of a certificate of exemption who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

17. Replacement of work permits and certificates of exemption

(1) Where the holder of a work permit or certificate of exemption which has been lost, destroyed, damaged or defaced wishes to replace the same, he shall lodge an application for a duplicate thereof, in such form and manner as the Minister may require together with the prescribed fee, and the permit or certificate, unless it has been lost or destroyed, with the authorized officer.

(2) The authorized officer shall consider every application lodged with him in accordance with subsection (1) and shall, if he is satisfied that the permit or certificate has been lost, destroyed, damaged or defaced, issue a duplicate thereof to the applicant.

(3) The authorized officer shall dispose of every permit and certificate lodged with him in

accordance with subsection (1) in such manner as the Minister may direct.

18. Returns by employers of holders of work permits or certificates of exemption

(1) Every person who employs, during any period of 12 months ending on 1st January, the holder of a work permit or certificate of exemption shall, within 15 days immediately after the expiry of that period, furnish to the Commissioner of Labour a return for that period in such form and containing such particulars as the Minister shall require.

(2) Any person who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P250 or to imprisonment for a term not exceeding three months, or to both.

19. Registers in respect of work permits and certificates of exemption

(1) The authorized officer shall keep at his principal office a register in respect of work permits and applications therefor and a separate register in respect of certificates of exemption.

(2) Each of the registers required to be kept under subsection (1) shall be in such form as may be prescribed and the authorized officer shall enter or cause to be entered therein such particulars as the Minister may require.

20. Minister to give directions in connection with carrying out functions under Act

(1) The Minister may give directions, either generally or with reference to a particular case, to the Commissioner of Labour or any authorized officer as to the exercise of any power or the performance of any duty conferred or imposed on him by this Act.

(2) Notwithstanding any other provision of this Act, every person to whom directions have been given by the Minister under subsection (1) shall comply with those directions.

21. Evidential presumption as to reasonable excuse

In any proceedings for an offence under this Act an ingredient of which is the absence of a reasonable excuse, the court shall presume the absence of a reasonable excuse on the part of the person charged unless the contrary is proved.

22. Regulations

The Minister may make regulations for any matter required to be made by regulations under this Act or for the better carrying into effect of the purposes and provisions of this Act.

23. Power of exemption of Commissioner of Labour in emergency

(1) Where the Commissioner of Labour is of the opinion that an emergency exists which requires the immediate employment or other engagement in an occupation for reward or profit of a non-citizen, he may order that the provisions of section 4 shall not apply in respect of that non-citizen, for such period and subject to such conditions as he may think fit.

(2) Any order under this section may be issued either orally or in writing.