

BOTSWANA NATIONAL ASSEMBLY

ORDER PAPER

(TUESDAY 4TH JUNE, 2024)

NOTICE OF MOTIONS AND ORDERS OF THE DAY

HRS/MINS

COMMITTEE STAGE

0900 - 1700

- Constitution (Amendment) An Act to amend the Constitution.
Bill, 2024 (Bill No. 4 of 2024)

(Published on 12th March, 2024)

(Minister for State President)

(Resumed Debate)

AMENDMENTS

1. **Clause 17** is amended by substituting for section 77 of the Constitution the following new section

Establishment and composition of the House of Representatives:

77. (1) There shall be a House of Representatives with powers on laws that deals with culture, family values and ethical conduct of the society;
The House of Representatives shall consist;

- (a) all recognized Dikgosi in the country
- (b) representatives of recognized faith based bodies in the country
- (c) representatives of recognized labour movements (federations)
- (d) representatives of NGOs in the country.

(Mr. C. K. Hikuama, MP. – Ngami)

(Resumed Debate)

2. **Clause 17 (b)** be deleted to exclude the power of the President to appoint 10 persons to the Ntlo ya Dikgosi.

(Mr. K. K. Kapinga, MP. – Okavango)

3. **Clause 17** by the deletion of paragraph (b)

(Mr. G. Kekgonegile, MP. – Maun East)

4. **Clause 17(b)** be amended by deleting the entire sub clause

(Mr. W. B. Mmolotsi, MP. – Francistown South)

5. **Clause 17** be amended by deleting paragraph (b) such that there is no need to select additional members of Ntlo ya Dikgosi.

(Mr. K. Nkawana, MP. – Selebi Phikwe East)

6. The Bill is amended at **Clause 18** appearing at page **B.21** by substituting for the words "77(a)", the words "77(1)(a)".

(Minister for State President)

7. The Bill be amended by deleting **Clause 19** appearing at page **B.21**.

(Minister for State President)

8. **Clause 21** be amended so that section 90(4) can read as:

"(4) For the purposes of subsection (3), the President may, subject to the provisions of any Act of Parliament and after consultation with the Secretary to the Electoral Commission, appoint the date for the general election in **October** following dissolution of Parliament. "

(Mr. G. Kekgonegile, MP. – Maun East)

9. **Clause 21(4)** be amended by replacing it with the words "The general elections shall be held on the last Saturday of October every 5 years."

(Mr. W. B. Mmolotsi, MP. – Francistown South)

10. The Bill be amended by inserting a new subclause:

"(c) The nominees referred to above shall be selected by such manner as shall be prescribed by an Act of Parliament.

(Dr. U. Dow, MP. – Specially Elected)

11. The Bill be amended by –

- (a) deleting **clauses 22 and 25**; and
- (b) substituting for the words "Commissioner of police, the word "National Commissioner of Police"

(Minister for State President)

12. **Clause 23(a) (1)** be amended by substituting for subsection 1 the following new subsection.

"A select committee of parliament shall advertise the position of chief justice, assess and interview candidates and recommend a name to the President for appointment"

(Mr. W. B. Mmolotsi, MP. – Francistown South)

13. **Clause 23(1) (b)** be deleted

(Mr. W. B. Mmolotsi, MP. – Francistown South)

14. The Bill be amended by deleting **Clause 23(b)**

(Dr. U. Dow, MP. – Specially Elected)

15. The Bill be amended at **Clause 23 (b)** by deleting the following clauses which seek to delete the words "acting in accordance with advice" and replace it with "on the recommendation"

(Mr. D. Tshere, MP. – Mahalapye West)

16. The Bill be amended by deleting **Clause 24**

(Dr. U. Dow, MP. – Specially Elected)

17. The Bill be amended by inserting a new clause, substituting Section 92 with the following new Section:

"If the National Assembly at any time passes a resolution supported by two thirds majority of all Members of the Assembly who are entitled to vote declaring that it has no confidence in the President of Botswana, The Speaker shall immediately declare the office of president vacant and the party or parties in power shall elect a new president from amongst themselves."

(Dr. U. Dow, MP. – Specially Elected)

18. The Bill be amended at **Clause 24** by deleting the following clauses which seek to delete the words "acting in accordance with advice" and replace it with "on the recommendation"

(Mr. D. Tshere, MP. – Mahalapye West)

19. It is proposed that **Clause 25** be amended to delete paragraph (b), such that there is no provision for President of the Court of Appeal. The Chief Justice will now preside over the Court of Appeal assisted by other Justices of Appeal. Any Clauses relating to President of the Court of Appeal be deleted.

(Mr. K. K. Kapinga, MP. – Okavango)

20. It is proposed that **Clause 25** be amended to delete paragraph (b), such that there is no provision for President of the Court of Appeal. The Chief Justice will now preside over the Court of Appeal assisted by other Justices of Appeal. Any Clauses relating to President of the Court of Appeal be deleted.

(Dr. K. Gobotswang, MP. – Sefhare-Ramokgonami)

21. The Bill be amended at **Clause 26 (b)** by deleting the following clauses which seek to delete the words "acting in accordance with advice" and replace it with "on the recommendation"

(Mr. D. Tshere, MP. – Mahalapye West)

22. **Clause 28** be amended at **28(a)** by deleting the entire sub clause and replacing it with the following" "A select committee of parliament shall advertise the positions of chief justice or President of the Court of appeal, assess and interview candidates and recommend a name to the President for appointment

(Mr. W. B. Mmolotsi, MP. – Francistown South)

23. **Clause 28(b)** be amended by deleting it

(Mr. W. B. Mmolotsi, MP. – Francistown South)

24. **Clause 28(2)** (a) to (g) are amended by deleting them all

(Mr. W. B. Mmolotsi, MP. – Francistown South)

25. **Clause 28(3)** be deleted

(Mr. W. B. Mmolotsi, MP. – Francistown South)

26. **Clause 29** be amended by inserting immediately after the words Judicial service commission wherever they appear in paragraph(a) the words or "select committee of parliament"

(Mr. W. B. Mmolotsi, MP. – Francistown South)

27. The Bill is amended at section **116** of the Constitution by inserting immediately after chapter vii the following new chapter

*Establishment of
Independent Offices*

CHAPTER VIIA
Independent Offices

116A. (1) There shall be established in accordance with this Constitution and any other law, the office of the Ombudsman and the Director-General of the Directorate on Corruption and Economic Crime.

(2) The Ombudsman and the Director-General shall be independent and subject only to the Constitution and the any other law.

(3) A member of the Cabinet or the National Assembly or any other person shall not interfere with the Ombudsman and Director-General in the exercise of their functions and all organs of the State shall accord such assistance as may be needed for the protection of the independence, dignity and effectiveness of the Ombudsman and the Director-General."

(Dr. K. Gobotswang, MP. – Sefhare-Ramokgonami)

28. The Constitution is amended at section 122, by substituting for subsection (5), the following new subsection –

"(5) This section applies to the offices of the judge of the Court of Appeal, judge of the High Court, member of the Public Service Commission, member of the Judicial Service Commission, member of the Delimitation Commission, Auditor General, Director of Public Prosecutions, Attorney-General, Director-General of the Directorate on Corruption and Economic Crime and the Ombudsman."

(Dr. K. Gobotswang, MP. – Sefhare-Ramokgonami)