



REPUBLIC OF BOTSWANA

GOVERNMENT GAZETTE EXTRAORDINARY

Vol. LXIII, No. 129

GABORONE

4th December, 2025

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The Botswana Government *Gazette* is printed by Department of Government Printing and Publishing Services, Private Bag 0081, GABORONE, Republic of Botswana. Annual subscription rates are P700.00 post free surface mail, SADC Countries airmail P1,500.00, Rest of Africa airmail P1,500.00, Europe and USA airmail P1,850.00.

The price for this issue of the Extraordinary *Gazette* is P10.00.

Statutory Instrument No. 149 of 2025

PERSONS WITH DISABILITY ACT
(Act No. 6 of 2024)

**PERSONS WITH DISABILITY (DEFINITION OF PERSON WITH
DISABILITY) REGULATIONS, 2025**
(Published on 4th December, 2025)

ARRANGEMENT OF REGULATIONS

REGULATION

PART I — *Preliminary Provisions*

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IN EXERCISE of the powers conferred on the Minister for State President by section 72 (2) of the Persons with Disability Act, the following Regulations are hereby made —

PART I — *Preliminary provisions*

1. These Regulations may be cited as the Persons with Disability (Definition of Person With Disability) Regulations, 2025. Citation
2. In these Regulations, unless the context otherwise requires — Interpretation
“addiction” includes a dependency;
“exhibitionism” means a compulsion to display one’s genitals or other intimate body parts or to behave sexually in public;

C.1342

Cap. 61:02

“medical practitioner” has the same meaning assigned to it under the Botswana Health Professions Act;
“medical treatment” includes receiving counselling following a prescribed diet and other therapies in addition to treatment with drugs; and
“voyeurism” means the practice of gaining sexual pleasure from watching others when they are naked or engaged in sexual activity.

PART II — Determination of disability

Assessment of disability

3. (1) For the purposes of section 2 of the Act, an assessment to determine whether an individual is a person with a disability shall be conducted by a medical practitioner.

(2) An assessment under subregulation (1) shall be based on the extent to which the individual’s condition affects the performance of normal day-to-day activities.

(3) For the purposes of subregulation (2), “normal day-to-day activities” include a person’s ability to participate fully and effectively in working life on an equal basis with persons without disabilities.

Conditions that may constitute disability

4. For purposes of section 72 (2) (a) of the Act, a disability may arise from a range of physical, mental, intellectual, or sensory impairments which have a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities. These may include, but are not limited to —

- (a) progressive conditions, such as motor neurone disease, muscular dystrophy, or forms of dementia;
- (b) autoimmune conditions;
- (c) impairments with fluctuating or recurring effects;
- (d) conditions resulting from injury to any part of the body, including the brain;
- (e) sensory impairments, including visual or hearing impairments;
- (f) organ-specific conditions, including respiratory illnesses, cardiovascular diseases, or heart disease;
- (g) developmental conditions; and
- (h) mental health conditions or mental illness.

Factors to be taken into account when determining substantial and long-term adverse effects

5. For purposes of section 72 (2) (b) (i) of the Act, a condition shall be treated as having —

- (a) long-term effects if —
 - (i) it has lasted for at least 12 months,
 - (ii) it is likely to last for at least 12 months, or
 - (iii) it is likely to last for the remainder of the person’s life; and
- (b) substantially adverse effects on a person’s ability to carry out normal day-to-day activities if —
 - (i) the effect is more than minor or trivial, or
 - (ii) by its nature, duration or impact, the condition limits the person’s ability to perform the essential functions of the job for which they are being considered.

(2) For purposes of subparagraph (1) (b) (ii), an assessment of whether the effects of a condition are substantially limiting shall take into account whether medical treatment or assistive devices would correct or control the condition to such an extent that its adverse effects are prevented or eliminated.

(3) A condition which ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities shall be treated as continuing to have that effect if —

- (a) the effect is likely to recur;
- (b) medical treatment merely prevents or delays recurrence; and
- (c) a recurrence would be likely if the medical treatment were to cease.

6. For purposes of section 72 (2) (b) (iii) of the Act, a condition shall be treated as progressive if, based on medical prognosis, its effect is likely to become substantial over time.

Progressive conditions

7. For the purposes of section 2 of the Act, a person who previously had a disability shall be treated as a person with a disability, where the effects of the condition —

Past disabilities

- (a) lasted for a continuous period of at least 12 months after the first occurrence; or
- (b) recurred or continued for a period extending beyond 12 months after the first occurrence, and the condition had a substantial adverse effect on the person's ability to carry out normal day-to-day activities.

8. (1) For purposes of section 72 (2) (b) (v) of the Act, the following conditions shall not, by themselves, be regarded as having long-term effects —

Conditions not regarded as having long-term effects

- (a) minor problems with writing and spelling;
- (b) inability to read very small, indistinct print without the aid of a magnifying glass;
- (c) infrequent minor incontinence;
- (d) inability to undertake activities requiring delicate hand movements, such as threading a small needle or picking up a pin;
- (e) occasional apprehension about significant heights;
- (f) experiencing some tiredness or minor discomfort as a result of travelling; and
- (g) inability to move heavy objects without assistance of a mechanical aid such as a trolley.

PART II — *Miscellaneous provisions*

9. Where a condition is subject to medical treatment, the use of an aid or any other corrective measure, the condition shall be regarded as having a substantial adverse effect on that person's ability to carry out normal day to day activities if, but for the medical treatment or correction, the condition would be likely to have a long-term adverse effect.

Effect of medical treatment

C.1344

Exclusions
from
disability

10. (1) For purposes of these Regulations, the following conditions shall not, of themselves, be treated as disability —

- (a) a tendency to steal;
- (b) a tendency to set fires;
- (c) a tendency to physical or sexual abuse of other persons;
- (d) exhibitionism;
- (e) voyeurism;
- (f) seasonal allergic rhinitis, except where it substantially worsens the effects of another condition;
- (g) an eye condition or disease affecting vision which can be wholly corrected by spectacles, contact lenses, or any other medical intervention; and
- (h) addiction to alcohol, nicotine or any other substance, except where the addiction results from the administration of medically prescribed drugs or other medical treatment.

(2) The provisions of subregulation (1) shall not prevent a condition from being treated as a disability where such condition —

- (a) develops as a consequence of, or in connection with, an excluded condition; and
- (b) meets the requirements of the definition of disability in section 2 of the Act.

(3) A person who has a condition listed in subregulation (1) may be regarded as a person with a disability for purposes of the Act if such a person also has another, separate condition which meets the requirements of the definition of disability in section 2 of the Act.

Disability card

11. (1) Where a person has been determined to be a person with a disability in accordance with the Act, the Medical Officer shall cause a disability card to be issued to that person.

(2) The disability card shall serve as official confirmation of the person's disability for purposes of the Act.

(3) A person issued with a disability card shall undergo reassessment by a medical practitioner at intervals not exceeding five years, or at such shorter interval as the medical practitioner may direct, to determine whether the condition giving rise to the disability persists.

(4) Where a medical practitioner certifies, based on medical evidence, that the condition which gave rise to the disability no longer exists and is unlikely to recur, the person concerned shall, within 30 days of being notified in writing, surrender the disability card to the Medical Officer.

(5) A person who, without reasonable cause, fails to surrender the disability card in accordance with subregulation (4) commits an offence and is liable to a fine not exceeding P500, or to imprisonment for a term not exceeding two months, or to both.

MADE this 4th day of December, 2025.

MOETI CAESAR MOHWASA,
Minister for State President.

Statutory Instrument No. 150 of 2025

PERSONS WITH DISABILITY ACT
(Act No. 6 of 2024)

**PERSONS WITH DISABILITY ACT (SPECIFIED PARTS
COMMENCEMENT DATE) ORDER, 2025**
(Published on 4th December, 2025)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Commencement of Parts I – VI, IX and Section 72 of Act No. 6 of 2024

IN EXERCISE of the powers conferred on the Minister for State President by section 1 of the Persons with Disability Act, 2024, the following order is hereby made —

1. This Order may be cited as the Persons with Disability Act, (Specified Parts Commencement Date) Order, 2025. Citation
2. Parts I – VI, IX and Section 72 of the Persons with Disability Act shall come into operation on 4th December, 2025. Commencement of Parts I – VI, IX and Section 72 of Act No. 6 of 2024

MADE this 4th day of December, 2025.

MOETI CAESAR MOHWASA,
Minister for State President.

