REPUBLIC OF BOTSWANA

GOVERNMENT GAZETTE EXTRAORDINARY

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FINANCIAL INTELLIGENCE (AMENDMENT) ACT, 2025

No. 1 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Financial Intelligence Act.

Date of Assent: 24.01.2025

Date of Commencement: 24.01.2025

ENACTED by the Parliament of Botswana.

Short title and commencement

1. This Act may be cited as the Financial Intelligence (Amendment) Act, 2025 and shall come into operation on such date as the Minister may by Order published in the *Gazette*, appoint.

General amendment of Cap. 08:07

2. The Financial Intelligence Act (hereinafter referred to as the "the Act") is amended by substituting for the words "financing of proliferation" wherever they appear in the Act, the words "proliferation financing.".

Amendment of section 2 of the Act

3. The Act is amended in section 2 by substituting for the words "accountable institution", "cash", "group-wide", "non-profit organisation" and "prominent influential person", the following new definitions —

"accountable institution" means a person referred to in Schedule III, its branches and subsidiaries;

"cash" means coin and paper money of Botswana or of another country that is designated as a legal tender and that circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue and includes fiat currency as defined in the Virtual Assets Act;

Act No. 4 of 2025

"group-wide" means a group that consists of a parent company or any other legal person exercising control and coordinating functions over the members of the group for the application of group supervision, together with branches or subsidiaries that are subject to anti-money laundering, counter financing of terrorism, counter proliferation financing policies and procedures at the group level;

"non-profit organisation" means a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes or for the carrying out of other types of good works;

"prominent influential person" means, in relation to —

(*a*) a foreign prominent influential person, a person who is or has been entrusted with prominent public function by a foreign country;

(*b*) a domestic prominent influential person, a person who is or has been entrusted with domestically prominent public functions and includes —

(i) a President,

(ii) a Vice-President,

(iii) a Cabinet Minister,

(iv) a Speaker of the National Assembly,

(v) a Deputy Speaker of the National Assembly,

(vi) a member of the National Assembly,
(vii) a senior government official,
(viii) a judicial officer,
(ix) a *Kgosi* as defined under the *Bogosi* Act, Cap. 41:01
(x) a senior executive of a private entity where the private entity is of such turnover as may be prescribed,
(xi) a senior executive of a public body,
(xii) a senior executive of a political party,
(xiii) senior executives of international organisations operating in Botswana, or
(xiv) such person as may be prescribed; and

(*c*) international organisation, a person who is or has been entrusted with a prominent function by an international organisation.".

Substitution of section 4 of the Act

4. The Act is amended by substituting for section 4, the following new section —

"Operational independence

4. (1) The Financial Intelligence Agency is hereby continued under this section.

(2) The Agency shall consist of a Director General and such other officers of the Agency, as may be necessary for the proper performance of the functions of the Agency.

(3) The Agency shall be operationally independent in pursuit of its primary objectives, and in the performance of its functions under this Act, shall act without fear, favour or prejudice or direction of any person, authority or institution.".

Amendment of section 5 of the Act

5. Section 5 of the Act is amended by inserting immediately after subsection (7), the following new subsection —

"(8) The Director General shall have the power to appoint or re-assign staff in critical functions including senior management.".

Amendment of section 6 of the Act

6. Section 6 (2) of the Act is amended —

(*a*) in paragraph (*d*), by inserting immediately after the words "specified party", the words "or accountable institution"; and

(*b*) by inserting immediately after paragraph (*k*), the following new paragraphs —

"(*l*) conduct operational analysis, which uses available and obtainable, information to identify specific targets to follow the trail of particular activities or transactions and to determine links between those targets and possible proceeds of crime, money laundering, predicate offences and terrorist financing; and

(*m*) conduct strategic analysis which uses available and obtainable information, including data that may be provided by other competent authorities, to identify money laundering and terrorist financing related trends and patterns.".

Amendment of section 8 of the Act

7. Section 8 (2) (*c*) of the Act is amended by —

(*a*) substituting for subparagraph (ii), the following new subparagraph —

"(ii) the Ministry responsible for presidential affairs", and

(*b*) inserting immediately after subparagraph (xviii), the following new subparagraphs—

"(xviiiA) the Ministry responsible for justice,

(xviiiB) the Drug Enforcement Agency, and

(xviiiC) the Civil Aviation Authority of Botswana,".

Amendment of section 9 of the Act

8. Section 9 of the Act is amended —

(*a*) in subsection (2) —

(i) by substituting for the chapeau therein, the following new chapeau —

"(2) The Committee shall with respect to declaration of terrorists and terrorist groups under section 10 —",

(ii) in paragraph (*a*) by inserting the word "," after the word "Minister", and

(iii) by deleting paragraph (*f*), appearing therein, and

(iv) by deleting paragraph (*h*), appearing therein; and

(*b*) by substituting for subsection (3), the following new subsection —

"(3) The Committee shall formulate policies to protect the international reputation of Botswana with regard to financial offences, and generally advise the Minister in relation to such matters relating to financial offences".

Insertion of section 9A in the Act

9. The Act is amended by inserting immediately after section 9, the following new section —

"National Coordination Office

9A. (1) There is hereby established a National Coordination Office which shall report to the Committee.

(2) The National Coordination Office shall be headed by an officer appointed by the Committee and shall consist of such other officers as may be necessary.

(3) The duties of the National Coordination Office shall be to —

(*a*) assess the effectiveness of policies and measures to combat financial offences;

(*b*) make recommendations to the Committee for legislative, administrative and policy reforms;

(*c*) promote inter agency coordination and cooperation among the relevant stakeholders;

(*d*) to coordinate the national risk assessment;

(*e*) to conduct outreach activities;

(*f*) to coordinate implementation of the recommendations from mutual evaluations, follow up reports and changes in international standards; and

(*g*) to execute any other functions as may be delegated by the Committee.".

Amendment of section 10 of the Act

10. Section 10 of the Act is amended in subsections (1), (3) and (5) by inserting immediately after the word "person", the words ", entity".

11. The Act is amended by inserting immediately after section 10, the following new section — Insertion of section 10A in the Act

"Designation for purposes of UN

10A. An individual, entity or group may be designated under the following circumstances, on the Minister's recommendation if —

(*a*) undertaking or participating in the financing, planning, facilitating, preparing or perpetrating acts or activities by or conjunction with or in support;

(*b*) supplying, directing or committing acts involving sexual and gender-based violence including rape, enslavement or persons and cases of abduction and trafficking in persons, when such acts are being used by ISIL (Da'esh), Al-Qaida and associated individuals, groups and entities as a tactic of terrorism; or

(*c*) any other prescribed criterion.".

12. Section 13 of the Act is amended in — Amendment of section 13 of the Act

(*a*) subsection (1) by inserting immediately after paragraph (*d*), the following new paragraph —

"(*e*) customers, countries or geographic areas and services."; and

(*b*) subsection (3) by deleting the words "or accountable institutions" appearing therein.

13. Section 15 (4) of the Act is amended by inserting the words "and counter proliferation financing" after the words "counter financing of terrorism", wherever they appear. Amendment of section 15 of the Act

14. Section 16 (1) of the Act is amended in — Amendment of section 16 of the Act

(*a*) paragraph (*b*) by inserting before the word "carrying" the word "when"; and

(*b*) paragraph (*d*) by inserting immediately after the word "transfer" the words "equal to or in excess of the prescribed amount".

15. Section 17 of the Act is amended by inserting immediately after subsection (3), the following new subsection — Amendment of section 17 of the Act

"(3A)A supervisory authority shall require a specified party to —

(*a*) obtain immediately from the third party the necessary information concerning identification of the customer, beneficial owner and the nature of the business;

(*b*) take steps to satisfy itself that copies of identification data and other relevant documentation relating to the customer due diligence requirements are made available from the third party upon request without delay;

(*c*) determine which country the third party it relies on is based in and have regard to information on the level of the country's risk; and

(*d*) determine whether a third party who is part of the same financial group meets the requirements.".

Amendment of section 19 of the Act

16. Section 19 (2) of the Act is amended by inserting the words "`, terrorist financing and proliferation financing`" after the words "money laundering".

Amendment of section 20 of the Act

17. Section 20 of the Act is amended —

(*a*) in subsection (1) by inserting immediately after paragraph (*d*), the following new paragraph —

"(*e*) establish the nature of the business and the ownership at on-boarding.";

(*b*) in subsection (2) —

(i) paragraph (*a*) by inserting the words "and verify" after the word "establish",

(ii) paragraph (*b*) by inserting the words "establish and" before the word "verify"; and

(iii) paragraph (*c*) by inserting the words "establish and" before the word "verify";

(*c*) in subsection (3) by substituting for paragraph (*c*) appearing therein, the following paragraph —

"(*c*) the other person's identity on the basis of documents or information obtained from a reliable source which is independent of both the customer and the person acting on behalf of the customer.";

(*d*) in subsection (6) by substituting for paragraph (*b*) appearing therein, the following new paragraph —

"(*b*) production of a national identity card for citizens and for nationals from specified countries.";

(*e*) by deleting subsection (9) appearing therein; and

(*f*) in subsection (10) by substituting for paragraph (*b*) appearing therein, the following new paragraph —

"(*b*) forms a reasonable suspicion of a financial offence,".

Amendment of section 22 of the Act

18. The Act is amended by substituting for section 22, the following new section —

"Enhanced due diligence measures relating to prominent influential persons

22. (1) A specified party shall, in accordance with its risk management systems and compliance programme, establish whether a customer or beneficial owner of a customer is a prominent influential person or a person entrusted with a prominent function by an international organisation.

(2) Where a specified party determines in accordance with its risk management systems and compliance programme that a customer with whom it engages to establish a business relationship or the beneficial owner of that customer is a prominent influential person or a person entrusted with a prominent function by an international organisation, the specified party shall —

(*a*) in relation to a foreign prominent influential person, in addition to performing the customer due diligence measures required under section 16, a specified party shall be required to —

(i) obtain senior management approval before establishing, or continuing, for existing customers, such business relationships,

(ii) take reasonable measures to establish the source of wealth and the source of funds of a customer and beneficial owner identified as a prominent influential person, and

(iii) conduct enhanced ongoing monitoring on that relationship, and

(*b*) in relation to a domestic prominent influential person, in addition to performing the customer due diligence measures required under section 16, a specified party shall be required to —

(i) take reasonable measures to determine whether a customer or the beneficial owner is a prominent influential person, and

(ii) in cases when there is higher risk business relationship with such a person, adopt the measures in subsection (2) (*a*) (ii) – (iv).".

Amendment of section 25 of the Act

19. Section 25 of the Act is amended in subsection (3) by substituting for the word "P 5000 000" the word "P 5 000 000".

Amendment of section 26 of the Act

20. (1) Section 26 of the Act is amended by substituting for subsection (2), the following new subsection —

"(2) A specified party shall not establish, maintain, administer, permit the use of the specified party's accounts or manage a correspondent account in Botswana for, or on behalf of, a foreign shell bank.".

Amendment of section 30 of the Act

21. The Act is amended by substituting for section 30, the following new section —

"Failure to satisfactory complete customer due diligence

30. Where a specified party is unable to comply with relevant customer due diligence measures —

(*a*) it shall not open the account, commence business relations or perform the transaction or should be required to terminate the business relationship; and

(*b*) it shall consider making a suspicious transaction report in relation to the customer.".

Amendment of section 31 of the Act

22. Section 31(1) of the Act is amended by substituting for paragraph (*d*), the following new paragraph —

"(*d*) the identity of a beneficial owner;".

Amendment of section 35 of the Act

23. Section 35 of the Act is amended by substituting for subsection (2), the following new subsection —

"(2) A person who destroys or removes any record, register or document kept in accordance with this Part commits an offence and is liable to —

(*a*) an administrative fine not exceeding P500 000 as may be imposed by the supervisory authority;

(*b*) a fine not exceeding P500 000; or

(*c*) imprisonment for a term not exceeding 10 years, or to both.".

Amendment of section 36 of the Act

24. Section 36 of the Act is amended by substituting for subsection (5), the following new subsection —

"(5) A person who intentionally obstructs an examiner in the performance of any of the examiner's duties under this section or fails, without reasonable excuse, to comply with a request of the examiner in the performance of the examiner's duties under this section, commits an offence and is liable to —

(*a*) an administrative fine not exceeding P500 000 as may be imposed by the supervisory authority;

(*b*) a fine not exceeding P500 000; or

(*c*) imprisonment for a term not exceeding 10 years, or to both.".

Deletion of section 40 of the Act

25. The Act is amended by deleting section 40.

Amendment of section 42 of the Act

26. Section 42 of the Act is amended —

(*a*) by inserting immediately after the words "financial institution" wherever they appear, the words "money value transfer service provider and virtual asset service provider"; and

(*b*) by substituting for subsection (1), the following new subsection —

"(1) A financial institution, a money value transfer service provider or a virtual asset service provider that through electronic transfer, transacts through domestic wire transfer, money or virtual assets equal to or in excess of the prescribed amount on behalf or on the instruction of a customer or any person, shall report to the Agency such particulars of the transfer as may be prescribed.".

Amendment of section 45 of the Act

27. Section 45 of the Act is amended by substituting for paragraph (*c*), the following new paragraph —

"(*c*) to submit a monitoring report to the Agency, within 10 working days, after the expiry of the 15 days' period provided under paragraph (*a*);".

Amendment of section 48 of the Act

28. Section 48 of the Act is amended by inserting immediately after the words "counter financing of terrorism", the words ", counter proliferation financing".

Amendment of section 49 of the Act

29. Section 49 of the Act is amended in —

(*a*) subsection (1) (*a*) by inserting immediately after the word "criminals", the words "or their associates";

(*b*) in subsection (2) (*a*) by —

(i) inserting immediately after the words "specified party", the words "or an accountable institution", and

(ii) substituting for the word "Part", the word "Act"; and (*c*) subsection (3) by substituting for paragraph (*c*), the following new paragraph —

"(*c*) conduct targeted supervision and monitoring on a non-profit organisation at risk of terrorist financing abuse; and".

30. Section 51 of the Act is amended — Amendment of section 51 of the Act

(*a*) in subsection (1) by substituting for paragraph (*b*), the following new paragraph and by inserting a new paragraph after paragraph (*b*)—

"(*b*) with respect to a trustee or a person holding an equivalent position in a similar legal arrangement —

(i) obtain and hold adequate, accurate and current beneficial ownership information regarding the trust and other similar legal arrangements on the identity of the settlor, trustee, protector, if any; each beneficiary or, where applicable, the class of beneficiaries and objects of a power; and or any other natural person exercising ultimate effective control over a trust, or a similar legal arrangement;

(ii) obtain and hold adequate, accurate and current basic and beneficial ownership information on legal structures which are party to the trust or similar legal arrangement; and

(iii) hold basic information on other regulated agents of, and service providers to the trust and similar arrangements including investment advisors or managers, donors, accountants and tax advisors."; and

"(*c*) a trustee or a person holding equivalent position in a similar legal arrangement shall ensure that all records required to be held under this Act are kept up to date and made available swiftly to a competent authority upon appropriate authority."; and

(*b*) by inserting immediately after subsection (3), the following new subsections —

"(3A) A competent authority shall have full access to information on the administration and management of particular non-profit organisation, including financial and programmatic information that may be obtained in the course of investigation.

(3B) A person who acts on behalf of a non-profit organisation that is identified to be at risk of abuse of terrorism financing, that fails to comply with the provisions of this section is liable to —

(*a*) an administrative fine not exceeding P500 000;

(*b*) cancellation of registration or licensing, as the case may be; or

(*c*) to both penalties provided under paragraphs (*a*) and (*b*), as may be imposed by the supervisory authority.".

31. Section 52 of the Act is amended by substituting for subsection (1), the following new subsection — Amendment of section 52 of the Act

"(1) The Agency may, for the purposes of assessing whether any information should be disseminated to an investigatory or supervisory authority, comparable body or competent authority, request further information in relation to a suspicious transaction, even when there is no suspicious transaction filed, from —

(*a*) the specified party, accountable institution or person who made the report;
(*b*) any other specified party or accountable institution that is, or appears to be involved in the transaction;
(*c*) an investigatory authority;
(*d*) a supervisory authority;
(*e*) any other administrative agency of the Government; or
(*f*) an accountable institution which made the report.".

Insertion of section 52A in the Act

32. The Act is amended by inserting immediately after section 52, the following new section

"Access to database

52A. The Agency shall, for purposes of spontaneously executing its duty under this Act, have access to a database of any competent authority.".

Amendment of section 61 of the Act

33. Section 61 of the Act is amended by inserting after the words "Schedule I", wherever it appears, the words ",Schedule II".

Amendment of section 62 of the Act

34. Section 62 is amended by substituting for subsection (1), the following new subsection —

"(1) The Director General shall, within six months of the following financial year or by such later date as the Minister may allow, submit a report to the Minister, on the activities of the Agency in the previous year.".

Amendment of section 63 of the Act

35. Section 63 (3) of the Act is amended by substituting for the word "P100 000" appearing therein, the word "P1 000 000".

Amendment of Schedule I to the Act

36. Schedule I to the Act is amended —

(*a*) by substituting for paragraph 7 appearing therein, the following new paragraph —
"7. A licensed operator as licensed under the Gambling Act, Cap. 19:03.";
(*b*) by substituting for paragraph 12 appearing therein the following new paragraph —
"12. A precious stone dealer when they engage in a cash transaction with a customer equal to or above the prescribed cash limit;".
(*c*) by deleting paragraphs 9 and 17 appearing therein;
(*d*) by substituting for paragraph 20 appearing therein, the following new paragraph—
"20. A trust and company service provider, when preparing for or carrying out transaction for clients concerning the following —
(*a*) acting as a formation agent of legal persons;
(*b*) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
(*c*) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

(*d*) acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; and

(*e*) acting as (or arranging for another person to act as) a nominee shareholder for another person.";

(*e*) by substituting for paragraph 22, the following new paragraph —

"22. A precious metal dealer as defined under the Unwrought Precious Metals Act, Cap. 20:03, when they engage in a cash transaction with a customer equal to or above the prescribed cash limit.".

Amendment of Schedule II to the Act

37. Schedule II to the Act is amended by inserting immediately after the last entry therein, the following entry —

"13. The Companies and Intellectual Property Authority established under the Companies and Intellectual Property Authority Act, Cap. 42:13.".

PASSED by the National Assembly on this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO G. MALEBANG,
Clerk of the National Assembly.

TRUST PROPERTY CONTROL (AMENDMENT) ACT, 2025

No. 2 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of Cap. 31:05
3. Amendment of section 4 of the Act
4. Insertion of section 4A in the Act
5. Amendment of section 5 of the Act
6. Substitution of section 7 of the Act
7. Amendment of section 9 of the Act
8. Insertion of section 10A in the Act
9. Amendment of section 18 of the Act
10. Insertion of section 19A in the Act
11. Insertion of section 19B in the Act
12. Amendment of section 23 of the Act
13. Amendment of section 24 of the Act
14. Insertion of section 28A in the Act
15. Amendment of section 30 of the Act
16. Amendment of section 31 of the Act

An Act to amend the Trust Property Control Act.

Date of Assent: 24.01.2025
Date of Commencement: 24.01.2025
ENACTED by the Parliament of Botswana.

Short title and commencement

1. This Act may be cited as the Trust Property Control (Amendment) Act, 2025 and shall come into operation on such a date as the Minister may, by Order published in the *Gazette*, appoint.

Amendment of section 2 of Cap. 31:05

2. The Trust Property Control Act (hereinafter referred to as "the Act") is amended in section 2 by —

(*a*) inserting in their correct alphabetical order, the following new definitions —

(i) "accounting records" means a record that —

(*aa*) correctly explain all transactions of the trust;

(*bb*) enable the financial position of the trust to be determined with reasonable accuracy at any time; and

(*cc*) allow financial statements to be prepared;

(ii) "control" means a power, whether exercisable alone or jointly with another person or with the consent of another person under the trust instrument or by law, to —

(*aa*) dispose of or invest, other than as an investment manager, trust property;

(*bb*) direct, make or approve trust distributions;

(*cc*) vary or terminate the trust;

(*dd*) add or remove a person as a beneficiary or to or from a class of beneficiaries; or

(*ee*) appoint or remove trustees;

(iii) "legal arrangement" means a relationship established pursuant to a contract between two or more parties that does not result in the emergence of a legal person,

(iv) "similar legal arrangements" means a legal arrangement with a similar structure or performs a similar function to a trust and is developed in other legal systems other than the common law,

(v) "specified party" has the same meaning as assigned under the Financial Intelligence Act,

Cap. 08:07

(vi) "trust" means a legal arrangement through which the ownership in property of one person is by virtue of a trust instrument made over or bequeathed —

(*aa*) to another person, the trustee, in whole or in part, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument; or

(*bb*) to the beneficiaries designated in the trust instrument, which property is placed under the control of another person, the trustee, to be administered or disposed of according to the provisions of the trust instrument for the benefit of the person or class of persons designated in the trust instrument or for the achievement of the object stated in the trust instrument, but does not include the case where the property of another is to be administered by any person as a trustee, executor, tutor or curator in terms of the provisions of any other written law; and

(vii) "ultimate effective control" has the same meaning as assigned to it under the Financial Intelligence Act;

(*b*) substituting for the definition of —

(i) "beneficiary", the following new definition —

"beneficiary" means a person who is or may become entitled to a benefit of any legal arrangement,

(ii) "non-profit trust", the following new definition —

"non-profit trust" means a trust established for the purpose of promoting charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of works for public benefit including, but not limited to —

(*aa*) the prevention or relief of poverty;

(*bb*) the advancement of education;

(*cc*) the advancement of religion;

(*dd*) the advancement of health or the saving of lives;

(*ee*) the advancement of citizenship or community development;

(*ff*) the advancement of arts, culture, heritage or science;

(*gg*) the advancement of sport;

(*hh*) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;

(*ii*) the advancement of environmental protection or improvement;

(*jj*) the relief of those in need because of youth, age, ill-health, disability, financial hardship or another disadvantage;

(*kk*) the advancement of animal welfare;

(*ll*) the promotion of the efficiency of the armed forces of Botswana or of the efficiency of the police, fire and rescue services or ambulance services; or

(*mm*) any other purpose that may reasonably be regarded as similar to, or within the spirit of the above-mentioned purposes,

(ii) "protector", the following new definition —

"protector" means a legal or natural person, other than a trustee, empowered by the trust instrument to oversee trustees` actions and to consider whether such actions are in the interest of the beneficiaries and may exercise such powers by —

(*aa*) approving the trustee`s decision;

(*bb*) revoking a trustee`s decision;

(*cc*) removing a trustee;

(*dd*) appointing a new trustee; or

(*ee*) changing the jurisdiction of the trust, and

(iii) "settlor", the following new definition —

"settlor" means a person who transfers ownership of assets to a trustee, beneficiary or any person holding similar position in a legal arrangement, by means of an instrument; and (*c*) substituting for the definition of "trust service provider" the following new definition —

"trust service provider" means a person other than an attorney, accountant or company secretary that, as part of his or her business, provides any of the following services to a third party —

(*a*) acting as a formation agent for a trust;

(*b*) providing a registered office, business address or accommodation, correspondence or administrative address for a trust;

(*c*) acting as, or arranging for another person to act as a trustee of a trust; or

(*d*) providing administrative services to a beneficial owner of a trust;".

Amendment of section 4 of the Act

3. Section 4 of the Act is amended by —

(*a*) inserting immediately after subsection (5) (*d*), the following new paragraphs —

"(*e*) refuse to register a trust if its name is similar to that of another trust;

(*f*) refuse to register a trust if the trust instrument does not meet the requirements of the Act; or

(*g*) refuse to register a trust if the founding trustees do not comply with the registration requirements of the Act.";

(*b*) substituting for subsection (6) the following new subsection —

"(6) The Master shall, on a risk-based approach after entering the particulars of the trust in the register under subsections (2) and (5), verify the beneficial owner information submitted in terms of section 5 using —

(*a*) information held by specified parties and other competent authorities;

(*b*) conducting inspections; and

(*c*) any other means as the Master may determine.";

(*c*) substituting for subsection (7) the following new subsection —

"(7) A person who makes or causes to be made an unauthorised entry, alteration or deletion from the register commits an offence and is liable to a fine not exceeding P500 000 or to imprisonment for a term not exceeding ten years, or to both."; and

(*d*) deleting subsection (8).

Insertion of section 4A in the Act

4. The Act is amended by inserting immediately after section 4, the following new section —

"Trust service provider

4A. (1) A person shall not operate as a trust service provider without registering with the Master.

(2) A natural person who wishes to register as a trust service provider shall —

(*a*) be fit and proper; and

(*b*) have a minimum of a certificate in —

(i) law,
(ii) accounting,
(iii) business administration,
(iv) business management,
(v) business science,
(vi) economics,
(vii) banking,
(viii) investments,
(ix) actuarial science,
(x) finance,
(xi) financial planning,
(xii) estate planning, or
(xiii) administration of estates and trusts.

(3) A juristic person who wishes to register as a trust service provider shall —

(*a*) be incorporated in Botswana under the Companies Act; Cap. 42:01

(*b*) have a registered office in Botswana; and

(*c*) appoint a natural person who meets the criteria at subsection (2) to act as nominee to carry out services of a trust service provider, on its behalf.

(4) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P 500 000 or to imprisonment for a term not exceeding 10 years, or to both.

(5) The Master may impose administrative penalties of an amount not exceeding that specified in subsection (4) where a person contravenes subsection (1).

(6) The Minister may make Regulations for the registration of trust service providers, trusts and trustees.".

Amendment of section 5 of the Act

5. Section 5 of the Act is amended by —

(*a*) substituting for subsection (2), the following new subsection —

"(2) A trust instrument lodged with the Master shall —

(*a*) state the type of trust established by the trust instrument;

(*b*) indicate the purpose of the trust;

(*c*) identify the trust property bequeathed and the beneficial owner of the trust including the settlor, trustee, protector, if any, each beneficiary, or where applicable, the class of beneficiaries and objects of a power and any other natural person exercising ultimate effective control over the trust;

(*d*) indicate whether the trustee shall provide security or is exempted therefrom; and

(*e*) in the case of a sub-trust of a foreign trust created to administer trust property situated in Botswana, contain a notarized copy of the trust instrument used to create the foreign trust.";

(*b*) substituting for subsection (3), the following new subsection —

"(3) For purposes of identifying a beneficiary, a trustee shall ensure that the trust instrument identifies a beneficiary by name and identification number or a passport number in the case of a non-citizen.";

(*c*) substituting for subsection (5), the following new subsection —

"(5) Where a trust instrument which has been lodged with the Master is varied, or any information required to be in a trust instrument in terms of subsection (2) is varied or any information contained in the registration forms filed with the Master changes, the trustee shall lodge the amendment or a copy thereof so certified with the Master or file with the Master an updated registration form, within 10 days of the variation or change occurring."; and

(*d*) inserting immediately after subsection (5) the following new subsections —

"(6) Any trust instrument of an *inter vivos* trust which is not lodged with the Master in accordance with subsection (1) within 30 days of being executed, shall be null and void.

(7) The ownership of a trust property of an *inter vivos* trust deemed to be null and void in accordance with subsection (6) shall revert to the settlor or donor thereof.

(8) The trustees' actions without authorisation from the Master shall be null and void save for performing functions that will allow a trustee to be authorised by the Master and to maintain and conserve trust property pending authorisation by the Master.".

Substitution of section 7 of the Act

6. The Act is amended by substituting for section 7, the following new section —

"Authorisation of trustee and security

7. (1) A person may only act as a trustee if duly authorised so by the Master and if that person is a person —

(*a*) nominated as a trustee in terms of a trust instrument and accepts such nomination;

(*b*) appointed as trustee in terms of a court order; or

(*c*) appointed as a trustee in terms of this Act.".

(2) A person nominated or appointed in accordance with subsection (1) shall apply for the Master`s authorisation to act as a trustee in accordance with the prescribed form and his or her application shall include —

(*a*) the full name, nationality, age, gender and residential address of the individual who is a beneficial owner; and

(*b*) the relationship of the trustee to the beneficial owners.

(3) Where the applicant under subsection (2) is a juristic person, the Master shall issue the authorisation in the name of an individual —

(*a*) that qualifies in terms of this Act to be appointed as a trustee; and (*b*) nominated by the juristic person to act as a trustee on behalf of that juristic person, and the juristic person is responsible and liable for the actions of such trustee, and where the juristic person replaces that individual, the juristic person shall, in terms of this section apply for authorisation for such individual to act as trustee in respect of the trust property concerned.

(4) The Master shall not grant authority to the trustee in terms of this section unless the trustee has —

(*a*) demonstrated to be fit and proper;

(*b*) furnished security to the satisfaction of the Master for the due and faithful performance of his or her duties as trustee; or

(*c*) been exempt from furnishing security by a court order or by the Master under subsection (5) or, subject to the provisions of subsection (5) (*d*), in terms of a trust instrument.

(5) The Master may, if in his or her opinion there are sound reasons to do so —

(*a*) whether or not security is required by the trust instrument, dispense with security by a trustee;

(*b*) reduce or cancel any security furnished;

(*c*) order a trustee to furnish additional security; or

(*d*) order a trustee who has been exempt from furnishing security in terms of a trust instrument to furnish security.".

7. The Act is amended by substituting for section 9 the following new section — Amendment of section 9 of the Act

"Foreign trustees

9. (1) Where a foreign trustee has to administer or dispose of trust property in Botswana, the provisions of this Act shall apply to such trustees in respect of such trust property and the Master may authorise such trustee under section 7 to act as trustee in respect of that property:

Provided that the foreign trustee —

(i) shall create a sub-trust to be registered in Botswana in accordance with section 4 and any other provision of this Act,

(ii) shall appoint a resident trustee to co-administer and dispose of the trust property that is located in Botswana, and

(iii) provides security in accordance with the provisions of this Act.

"(2) The provisions of subsection (1) shall apply with the necessary changes to a person who holds an equivalent position in a similar legal arrangement.".

8. The Act is amended by inserting immediately after section 10, the following new section — Insertion of section 10A in the Act

“Disclosure of status

10A. A trustee shall disclose his or her position as trustee to any specified party with which the trustee engages in that capacity, and shall inform the specified party that the relevant transaction or business relationship relates to trust property.”.

Amendment of section 18 of the Act

9. Section 18 of the Act is amended by inserting immediately after subsection (3), the following new subsection —

“(4) Notwithstanding the provisions of this section, a trustee shall, on annual basis account in the prescribed form, to the Master for the trustees administration and disposal of trust property.”.

Insertion of section 19A in the Act

10. The Act is amended by inserting immediately after section 19, the following new section —

“Master`s directives

19A. (1) The Master may, by Notice in the *Gazette*, issue a directive to all trustees and trust service providers dealing with the application of this Act.

(2) The Master shall, before issuing a directive under subsection (1), publish, in the *Gazette* a draft of the directive and invite submissions within five days of publication of the draft and shall consider the submissions.”.

Insertion of section 19B in the Act

11. The Act is amended by inserting immediately after section 19A, the following new section —

“Information sharing

19B. The Master may cooperate and exchange information with foreign counterparts on basic and beneficial ownership information and risk assessment for trusts and similar legal arrangements.”.

Amendment of section 23 of the Act

12. Section 23 (3) is amended by inserting immediately after paragraph (*e*), the following new paragraph —

“(*f*) the trustee upon review by the Master fails the fit and proper test.”.

Amendment of section 24 of the Act

13. The Act is amended by substituting for section 24, the following new section —

“Resignation by trustee

24. (1) A trustee may resign by notice in writing to the Master and the ascertained beneficiary who has legal capacity, or to the tutors or curators of the beneficiaries of the trust under tutorship or curatorship, whether or not the trust instrument provides for the trustee’s resignation.

(2) A trustee resigning under subsection (1) shall account to the Master, in the prescribed form, for the administration and disposal of trust property, and lodge with the Master all accounting records including underlying invoices and contracts related to the administration and disposal of trust property, and a letter of authorisation issued to the trustee.”.

Insertion of section 28A in the Act

14. The Act is amended by inserting immediately after section 28, the following new section —

“Termination by trust

28A. (1) Where a trust is being terminated, the Master shall be furnished with —

(*a*) a resolution outlining —

(i) the reasons for dissolving or terminating the trust,
(ii) whether the trust was active or dormant, and
(iii) whether a bank account was opened in the name of the trust and if so, a letter from the bank confirming that the bank has closed the account;

(*b*) a bank statement reflecting a —
(i) nil statement, or
(ii) final statement;

(*c*) proof that a beneficiary has received his or her benefits;

(*d*) accounting record, including underlying contracts and invoices for the administration and disposal of trust assets;

(*e*) proof that creditors to the trust have been settled;

(*f*) an original letter of authority; and

(*g*) an affidavit by the trustee confirming that the trust has been divested of all assets.

(2) The Master shall terminate a trust if satisfied that there is compliance with subsection (1), and shall deregister the trust.".

Amendment of section 30 of the Act

15. Section 30 of the Act is amended by inserting immediately after subsection (3), the following new subsection —

"(4) Notwithstanding the provisions of this section, the Master may impose an administrative penalty of an amount not exceeding P500 000 or deregistration of the trust and trustee where a trustee contravenes the provisions of this Act.".

Amendment of section 31 of the Act

16. Section 31 of the Act is amended by substituting for subsection (2), the following new subsection —

"(2) Without derogating from the generality of subsection (1), regulations may provide for —

(*a*) the type of information to be provided to the Master at the time of registration of a trust by the trustee, settlor or any other person who has effective control of the trust property;

(*b*) the method of making requests for information under section 19 including the methods a trustee may use to give that information;

(*c*) the fees to be charged for any purpose under this Act;

(*d*) accounting records; and

(*e*) any matter under this Act which may be prescribed.".

PASSED by the National Assembly this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO
G. MALEBANG,
Clerk of the National Assembly.

COMPANIES (AMENDMENT) ACT, 2025

No. 3 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of Cap. 42:01
3. Insertion of section 14A in the Act
4. Amendment of section 37 of the Act
5. Amendment of section 109 of the Act
6. Amendment of section 129 of the Act
7. Amendment of section 145 of the Act
8. Amendment of section 156 of the Act
9. Amendment of section 161 of the Act
10. Amendment of section 186 of the Act
11. Insertion of section 186A in the Act
12. Amendment of section 209 of the Act
13. Amendment of section 329 of the Act
14. Amendment of section 329A of the Act
15. Insertion of section 331A in the Act
16. Insertion of section 336A in the Act
17. Amendment of section 341 of the Act
18. Amendment of section 342 of the Act
19. Amendment of section 492 of the Act
20. Amendment of Schedules to the Act

An Act to amend the Companies Act.

Date of Assent: 24.01.2025
Date of Commencement: 24.01.2025
ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Companies (Amendment) Act, 2025, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint. Short title and commencement

2. The Companies Act, (hereinafter referred to as "the Act") is amended in section 2, by — Amendment of section 2 of Cap. 42:01

(*a*) substituting for the definition of —

(i) "nominee", the following new definition —

"nominee" means an individual or legal person instructed by another individual or legal person (the nominator), to act on the nominator's behalf in a certain capacity regarding a legal person, and

(ii) "nominator", the following new definition —

"nominator" means —

(*a*) an individual or group of individuals, or a legal person that issues instructions directly or indirectly to a nominee to act on the nominee's behalf in the capacity of a director or a shareholder; or

(*b*) a shadow director or silent partner; and

(*b*) inserting in their correct alphabetical order, the following new definitions —

""nominee director (resident director)" means an individual or legal entity that routinely exercises the functions of the director in the company on behalf of, and subject to the direct or indirect instruction of the nominator, and such director is never a beneficial owner of a legal person; and

"nominee shareholder" means an individual or legal entity that exercises voting rights according to instructions of a nominator or receives dividends on behalf of the nominator, and such nominee shareholder is never a beneficial owner of a legal person based on the shares the nominee shareholder holds as a nominee;".

Insertion of section 14A in the Act

3. The Act is amended by inserting immediately after section 14, the following new section —

"Registrar's powers to exchange information Cap. 08:04

14A. The Registrar shall exchange the following information held by the corporate registry with other foreign corporate registries or foreign competent authorities —

(*a*) basic information;

(*b*) beneficial owner information;

(*c*) nominator and nominee information; and

(*d*) any other information.".

Amendment of section 37 of the Act

4. The Act is amended in section 37 by substituting for subsection (2), the following new subsection —

"(2) A company which, prior to the commencement of this Act, was not required to have a constitution, shall submit to the Registrar, a constitution in the manner set out in the First Schedule, within 12 months from the commencement of this Act, or within a longer period as may be specified by the Minister by Order published in the *Gazette*.".

Amendment of section 109 of the Act

5. The Act is amended in section 109 by substituting for the words "Second Schedule" appearing therein, the words "First Schedule".

Amendment of section 129 of the Act

6. The Act is amended in section 129 by substituting for the words "Third Schedule" appearing in subsection (1), the words "First Schedule".

7. The Act is amended by substituting for section 145, the following new section — Amendment of section 145 of the Act

"Number of directors

145. A company shall have at least —

(*a*) two directors, if it is a public company;

(*b*) one director, if it is a private company other than a close company; or

(*c*) one director, if it is a foreign company or a company limited by guarantee,

ordinarily resident in Botswana.".

8. The Act is amended in section 156 by substituting for the words "Fourth Schedule" appearing therein, the words "First Schedule". Amendment of section 156 of the Act

9. The Act is amended in section 161 by — Amendment of section 161 of the Act

(*a*) substituting for subsection (2) the following new subsection —

"(2) A person shall not be appointed as a secretary of a company, unless such person has —

(*a*) been licensed by the Registrar in a manner to be prescribed; and

(*b*) the qualifications as set out in section 162.";

(*b*) inserting immediately after subsection (2), the following new subsection —

"(2A) Any person appointed as a secretary to a company shall comply with subsection (2) (*a*) within 24 months after the commencement of this Act or within such longer period as may be specified by the Minister by Order published in the *Gazette*."; and

(*c*) substituting for the word "named" appearing in subsection (3), the word "appointed".

10. The Act is amended in section 186 by deleting subsection (2). Amendment of section 186 of the Act

11. The Act is amended by inserting immediately after section 186, the following new section — Insertion of section 186A in the Act

"Update of records

186A. (1) Subject to subsection (2), a company shall —

(*a*) keep an up to date record of all beneficial owner information, including beneficial owner information of any shareholder company registered outside Botswana; and

(*b*) update any record held by a legal person.

(2) A company shall update and notify the Registrar within 10 days where there is any change, other than a change that has been provided for under the Act, in the information of a legal person, including beneficial owner information.

(3) Any person who is required under the Act to provide the Registrar with any information, or update any information, shall do so within 10 days of being required to do so.

(4) A company which fails to comply with this section is guilty of an offence and is liable to a penalty set out in section 492.".

Amendment of section 209 of the Act

12. The Act is amended in section 209 by —

(*a*) inserting immediately after subsection (1), the following new subsection —

"(1A) An exempt private company shall file financial statements in a form to be prescribed."; and

(*b*) substituting for subsection (3), the following new subsection —

"(3) This section applies to any —

(*a*) public company;

(*b*) other company in which a public company holds more than 25 per cent of its share capital;

(*c*) non-exempt private company; and

(*d*) company which is required by any other enactment to deliver its financial statements to the registrar for registration.".

Amendment of section 329 of the Act

13. Section 329 of the Act is amended in subsection (1), by substituting for the words "five per cent", appearing in the definition of "substantial shareholder", the words "10 per cent".

Amendment of section 329A of the Act

14. The Act is amended by substituting for section 329A, the following new section —

"Disclosure by nominee shareholder or director

329A. (1) A nominee shareholder or director shall —

(*a*) disclose his or her status as a nominee shareholder or nominee director; and

(*b*) disclose the identity of his or her nominator, to the Registrar and the company for inclusion in the register.

(2) The information on the status of the nominee shareholder and the identity of the nominator disclosed under subsection (1) shall be information received at the registration phase of the company as well as any change to such information at any time.

(3) Where the nominator under subsection (1) changes, the nominee shareholder or director shall, within 10 working days, file a notice to that effect with the Registrar.

(4) The nominee shareholder or director shall, upon request by a competent authority, make information identifying his or her nominator available to the competent authority.

(5) A nominee shareholder or director who fails to comply with this section shall be guilty of an offence and is liable to a penalty set out in sections 492 and 493 (2).".

Insertion of section 331A in the Act

15. The Act is amended by inserting immediately after section 331, the following new section —

"Name of company removed from register of companies not available

331A. Where a company has been removed from the register of companies in accordance with section 331, the Registrar shall not —

(*a*) avail the name of such company for registration or public use, for a period of five years from the date of removal; and

(*b*) register any company with a name identical to the name of the company whose name has been removed from the register of companies.".

Insertion of section 336A in the Act

16. The Act is amended by inserting immediately after section 336, the following new section —

"Company trading after removal from register of companies

336A. A company that has been removed from the register of companies in accordance with this Act, and continues to trade, is guilty of an offence and is liable to a penalty set out in sections 492 and 493.".

Amendment of section 341 of the Act

17. The Act is amended in section 341 by —

(*a*) substituting for subsection (2), the following new subsection —

"(2) Any person who, at the time the company was removed from the register, was —

(*a*) a shareholder or director of the company;

(*b*) a creditor of the company;

(*c*) a liquidator of the company; or

(*d*) the Master,

may make an application under subsection (1)."; and

(*b*) substituting for subsection (4), the following new subsection —

"(4) The Registrar shall —

(*a*) not restore a company to the register of companies in accordance with subsection (1), where such company has been removed from the register for a period exceeding five years; or

(*b*) not restore a company to the register of companies if the Registrar receives an objection to the restoration within the period stated in the notice."; and

(*c*) inserting immediately after subsection (6), the following new subsection —

"(6A) A company that has been removed from the register of companies due to failure to file an annual return shall within seven days of the payment of such annual return, be restored to the register of companies by the Registrar.".

Amendment of section 342 of the Act

18. The Act is amended in section 342 by inserting immediately after subsection (3), the following new subsection —

"(3A) A company that has been restored to the register of companies under subsection (1) (*a*) (ii) and (*b*) shall, upon resolution of the matter before the court, be removed from the register of companies.".

Amendment of section 492 of the Act

19. The Act is amended in section 492 (5) by inserting immediately after paragraph (*b*), the following new paragraphs —

"(*ba*) impose an administrative penalty not exceeding P500 000 for any other offence where an administrative penalty is not provided for under the Act; or

(*bb*) issue guidelines for the levying of an administrative penalty not exceeding P500 000 for an offence under paragraph (*ba*);".

Amendment of Schedules to the Act

20. The Act is amended by —

(*a*) substituting for the First Schedule, the following new Schedule —

"FIRST SCHEDULE

A. CONSTITUTION OF A COMPANY LIMITED BY SHARES
(*sections 37 (2), 40 (b), 109, 129 (1) and 156*)

(*NB: This constitution is intended to act as a guide, and may be altered to meet specific circumstances of each company*).

COMPANY NAME:

1. Interpretation

In this constitution —

"Act" means the Companies Act;

"beneficial owner" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act; and

"ultimate effective control" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act.

2. Issue of new shares mandate

New shares shall be issued in accordance with section 50 of the Act with the pre-emptive rights provided for in section 52.

3. Transfer of shares

(1) *Freedom to Transfer is Qualified*: Every change in the ownership of shares in the capital of the company shall be subject to the following limitations and restrictions.

(2) *Pre-emptive Provisions*: No share in the capital of the company shall be sold or transferred by any shareholder unless and until the rights of pre-emption hereinafter conferred have been exhausted.

(3) *Transfer Notice and Fair Price*: It shall be required that —

(*a*) every shareholder including the personal representative of a deceased shareholder or the trustee of the property of an insolvent shareholder who desires to sell or transfer any share or shares shall give notice in writing to the board of such desire;

(*b*) if such notice includes several shares, it shall not operate as if it were a separate notice in respect of each such share, and the proposing transferor shall be under no obligation to sell or transfer some of the shares specified in such notice;

(*c*) such notice shall be irrevocable and shall be deemed to appoint the board the proposing transferor's agent to sell such shares in one or more lots to any shareholder or shareholders of the company (including the directors or any of them) at a price to be agreed upon between the party giving such notice and the board or, failing agreement between them within 28 days of the board receiving such notice, at a fair price to be determined on the application of either party by a person to be nominated by the chairperson for the time being of the Law Society of Botswana; and

(*d*) such person, referred to in paragraph (*b*), when nominated, and in certifying the sum which in that person's opinion is the fair price for the share, shall be considered to be acting as an expert and not as an arbitrator.

(4) *Offer to Shareholders and Consequent Sale*: The following conditions shall apply —

(*a*) upon the price for such shares being agreed on or determined, as the case may be, the board shall immediately give notice to each of the shareholders (other than the person wanting to sell or transfer such shares) stating the —

(i) number and price of such shares and inviting each of the shareholders to whom the notice is given to state in writing within 21 days after the date of the notice whether such shareholder is willing to purchase any, and

(ii) maximum number of such shares, where such shareholder is willing to purchase any;

(*b*) at the expiration of 21 days from the date of the notice, the board shall —

(i) apportion such shares amongst the shareholders (if more than one) who have expressed a desire to purchase the same, and

(ii) as far as may be pro rata according to the number of shares already held by the shareholders respectively, or if there is only one such shareholder, the whole of such shares shall be sold to that shareholder:

Provided that no shareholder shall be obliged to take more than the maximum number of shares stated in that shareholder's response to such notice; and

(*c*) upon such apportionment being made or such one shareholder notifying such shareholder's willingness to purchase, as the case may be, the party desiring to sell or transfer such share or shares shall be bound, upon payment of the said price, to transfer such share or shares to the respective shareholder or shareholders who have or has agreed to purchase the same and, in default thereof, the board may receive and give a good discharge for the purchase money on behalf of the party desiring to sell and enter the name of the purchasers or purchaser in the share register as holder or holders of such share or shares so sold.

(5) *Shares on Offer not Taken up by Shareholders*: In the event of all such shares not being sold under the preceding clause within 60 days of the board receiving notice, the party desiring to sell or transfer shall be at liberty within a further period of 30 days to sell the shares not so sold, but not a portion only, to persons who are not shareholders, provided however, that such party shall not sell them for a price less than the price at which the same have been offered for sale to the shareholders under this clause, but every such sale shall nevertheless be subject to the provisions of clause 4.

(6) *Family Transactions*: Any share —

(*a*) may be transferred by a shareholder to, or to trustees for, any husband or wife or child or grandchild or son-in-law or daughter-in-law of that shareholder, and any share of a deceased shareholder may be transferred by his or her executors or administrators to any husband or grandchild or son-in-law or daughter-in-law of the deceased shareholder; and

(*b*) held by trustees under any such trust as aforesaid may be transferred to any beneficiary, referred to in paragraph (*a*), of such trust, and shares standing in the name of the trustee of the will of any deceased shareholder or trustees under any such trust may be transferred upon any change of trustees for the time being of such will or trust, and the restrictions contained in the preceding subclauses 3 (2) to 3 (5) inclusive shall not apply to any transfer authorised by this clause but every such transfer shall nevertheless be subject to the provisions of clause 4.

4. Refusal to register transfers

Directors' Right to refuse registration: Subject to compliance with the provisions of section 81 of the Act, the board may refuse or delay the registration of any transfer of any share to any person whether an existing shareholder or not —

(*a*) if so required by law;
(*b*) if registration would impose on the transferee a liability to the Company and the transferee has not signed the transfer;
(*c*) if a holder of any such share has failed to pay on due date any amount payable thereon either in terms of the issue thereof or in accordance with the constitution (including any call made thereon);
(*d*) if the transferee is a minor or a person of unsound mind;
(*e*) if the transfer is in respect of more than one class of shares;
(*f*) if the transfer is not accompanied by such proof as the board reasonably requires of the right of the transferor to make the transfer;
(*g*) if the pre-emptive provisions contained in clause 3 have not been complied with; or
(*h*) if the board acting in good faith decides in its sole discretion that registration of the Transfer would not be in the best interests of the company and/or any of its shareholders.

5. Purchase or other acquisition of own shares

(1) *Authority to Acquire Own Shares*: for the purposes of section 65 of the Act, the company is expressly authorised to purchase or otherwise acquire shares issued by it.

(2) *Authority to hold own shares*: Subject to any restrictions or conditions imposed by law, the company is expressly authorised to hold shares acquired by it pursuant to section 66 or section 100 of the Act.

6. Calls on shares and forfeiture of shares

Calls on shares and forfeiture of shares shall be conducted in accordance with the Seventh Schedule to the Act.

7. Shareholders meetings

Shareholders meetings shall be conducted in accordance with Part A of this Constitution.

8. Directors

(1) The directors of the company shall be such person or persons as may be appointed from time to time by ordinary resolution, or by notice to the company signed by the holder or holders for the time being of the majority of ordinary shares in the capital of the company but so that the total number of directors shall not at any time exceed the number fixed pursuant to subclause (2) or by ordinary resolution pursuant to subclause (3).

(2) The first directors and the number of directors shall be determined in writing by the subscribers to the application for incorporation.

(3) The company may by ordinary resolution increase or reduce the number of directors.

(4) The directors may appoint any person to be a director to fill a casual vacancy or as an addition to the existing directors but the total number of directors shall not at any time exceed the number fixed in accordance with subclause (2) or by ordinary resolution pursuant to subclause (3).

(5) Any director appointed under subclause (4) shall hold office only until the next following annual meeting and shall then retire but is eligible for election at that meeting.

(6) A director shall hold office until removed by special resolution pursuant to section 151 (2) of the Act or ceasing to hold office pursuant to section 152 of the Act.

9. Remuneration of directors

The remuneration of directors shall be determined in accordance with section 157 of the Act.

10. Proceedings of directors meetings

Proceedings of meetings of the Board of Directors shall be conducted in accordance with Part B of this Constitution.

11. Managing Director

(1) The directors may appoint one or more amongst themselves to the office of managing director for such period and on such terms as they think fit and subject to the terms of any agreement entered into in any particular case may revoke that appointment.

(2) If for any reason a managing director ceases to be a director his appointment shall automatically cease.

(3) A managing director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration whether by way of salary, commission or participation in profits as the directors may determine.

(4) The directors may entrust to and confer upon the managing director any of the powers exercisable by them with such restrictions as they may think fit, and either generally or to the exclusion of their own powers subject always to section 129 of the Act, and the directors may revoke, alter, or vary, all or any of these powers.

12. Dividends

(1) Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this article as paid on the share.

(2) All dividends shall be authorised by the board pursuant to section 58 of the Act with the approval of an ordinary resolution of shareholders, provided that the board may make payment of an interim dividend where this appears to be justified by the profits of the company and provided the solvency test is satisfied in accordance with section 58 of the Act.

(3) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

(4) The directors may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.

(5) No dividend shall bear interest against the company.

(6) Any dividend, interest, or other money payable in cash in respect of shares may be paid by cheque or postal or money order sent through the post directed to the registered address of the holder, or in the case of joint holders, to the registered address of that one of the joint holders who is first named on the members' register or to such person and to such address as the holder or joint holders may in writing direct.

(7) Every such cheque or postal or money order shall be made payable to the order of the person to whom it is sent.

(8) Any one of the 2 or more joint holders may give effectual receipts for any dividends, bonuses, or other money payable in respect of the shares held by them as joint holders.

13. Winding up

(1) Subject to the terms of issue of any shares in the company and to subclause (2) upon the winding up of the company, the assets, if any, remaining after payment of the debts and liabilities of the company and the costs of winding up ("the surplus assets"), shall be distributed among the shareholders in proportion to their shareholding provided, however, that the holders of shares not fully paid up shall only receive a proportionate share of their entitlement being an amount paid to the company in satisfaction of the liability of the shareholder to the company in respect of the shares either under the constitution of the company or pursuant to the terms of issue of the shares.

(2) Where the company is wound up, the liquidator may, with the sanction of a special resolution of the company, divide in kind amongst the members the assets of the company, whether they consist of property of the same kind or not, and may for the purpose set such value as he deems fair upon any property to be divided and may determine how the division is to be carried out as between the shareholders or different classes of shareholders.

14. One person companies and companies in which all shareholders are directors
If at any time the company, for a continuous period exceeding six months is a one-person company, or is a company in which all shareholders also hold office as director, then, for so long as such circumstance continues, the following provisions shall apply —

(*a*) new shares may be issued by unanimous resolution signed by the shareholder or shareholders having such rights and on such terms and conditions as may be set out in the resolution;

(*b*) a copy of the resolution shall be registered with the Registrar of Companies; and

(*c*) separate meetings of shareholders and directors need not be held provided all matters required by the Act to be dealt with by a general meeting of shareholders or a meeting of directors are dealt with by way of a unanimous resolution.

PART A

PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

15. Chairperson

(1) If the directors have elected a chairperson of the board, and the chairperson of the board is present at a meeting of shareholders, he or she shall chair the meeting.

(2) If no chairperson of the board has been elected or if, at any meeting of shareholders, the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their number to be chairperson of the meeting. If no director is willing to act as chairperson, or if no director is present within 15 minutes of the time appointed for holding the meeting, the shareholders present may choose one of their number to be chairperson of the meeting.

16. Notice of meetings

(1) Written notice of the time and place of a meeting of shareholders shall be sent to every shareholder entitled to receive notice of the meeting and to every director, any secretary and any auditor of the company not less than 10 working days before the meeting.

(2) The notice shall state —

(*a*) the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and

(*b*) the text of any special resolution to be submitted to the meeting.

(3) An irregularity in a notice of a meeting is waived if all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such shareholders agree to the waiver.

(4) The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder does not invalidate the proceedings at that meeting. The chairperson may, and if directed by the meeting shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting of shareholders is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

17. Methods of holding meetings

A meeting of shareholders may be held either by —

(*a*) a number of shareholders, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(*b*) means of audio, or audio and visual communication by which all shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

18. Quorum

(1) Subject to subclause (2) of this clause, no business may be transacted at a meeting of shareholders if a quorum is not present.

(2) A quorum for a meeting of shareholders is present if shareholders or their proxies are present or have cast postal votes who are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.

(3) If a quorum is not present within 60 minutes after the time appointed for the meeting —

(*a*) in the case of a meeting called under section 106 (*b*) of the Act, the meeting is dissolved;

(*b*) in the case of any other meeting the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the directors may appoint; and

(*c*) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders or their proxies present are a quorum.

19. Voting

(1) In the case of a meeting of shareholders held under subclause 4 (*a*) of this clause, unless a poll is demanded, voting at the meeting shall be by whichever of the following methods as determined by simple majority —

(*a*) voting by voice;

(*b*) voting by show of hands; or

(*c*) voting by ballot or by any other electronic means that is widely acceptable.

(2) In the case of a meeting of shareholders held under clause 4 (*b*) of this clause, unless a poll is demanded, voting at meeting shall be by the shareholders signifying individually their assent or dissent by voice.

(3) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with subclause (5) of this clause.

(4) At a meeting of shareholders a poll may be demanded by —

(*a*) not less than five shareholders having the right to vote at the meeting, or any other number of shareholders as may be determined by the company in view of the total number of shareholders in the company;

(*b*) a shareholder or shareholders representing not less than 10 per cent of the total voting rights of all shareholders having the right to vote at the meeting;

(*c*) a shareholder or shareholders holding shares in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all shares that confer that right; or

(*d*) the chairperson of the meeting.

(5) A poll may be demanded either before or after the vote is taken on a resolution.

(6) If a poll is taken, votes shall be counted according to the votes attached to the shares of each shareholder present in person or by proxy and voting.

(7) The chairperson of a shareholders' meeting is not entitled to a casting vote.

(8) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of a company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a shareholder has the same effect as a demand by the shareholder.

(9) Subject to any rights or restrictions for the time being attached to any class of shares, every shareholder present in person or by proxy and voting by voice or by show of hands and every shareholder voting by postal vote (where this is permitted) shall have one vote.

(10) The demand for a poll may be withdrawn by —

(*a*) not less than the majority shareholders having the right to vote at the meeting, or any other number of shareholders as may be determined by the company in view of the total number of shareholders in the company;

(*b*) a shareholder or shareholders representing not less than 10 per cent of the total voting rights of all shareholders having the right to vote at the meeting;

(*c*) a shareholder or shareholders holding shares in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all shares that confer that right; or

(*d*) the chairperson of the meeting.

(11) Except as provided in subclause (12), if a poll is duly demanded it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(12) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time and place as the meeting directs, and any business other than that on which a poll has been demanded may be proceeded with pending the taking of the poll.

NOTE: The subclauses of this clause, other than subclauses (7) and (9) to (12), apply notwithstanding any contrary provision in any constitution adopted by the company.

20. Proxies

(1) A shareholder may exercise the right to vote either by being present in person or by proxy.

(2) A proxy for a shareholder is entitled to attend and be heard at a meeting of shareholders as if the proxy were the shareholder.

(3) A proxy shall be appointed by notice in writing signed by the shareholder and the notice shall state whether the appointment is for a particular meeting or a specified term.

(4) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting. Any power of attorney or other authority under which the proxy is signed or a notarial certified copy shall also be produced.

(5) A proxy form shall be sent with each notice calling a meeting of the company, and shall be issued in terms of Annexure I of this constitution.

(6) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.

NOTE: The constitution of a company may provide that a proxy is not effective unless it is produced by a specified time before the start of a meeting if the time specified is not earlier than 24 hours before the start of the meeting. Otherwise the provisions of this clause (apart from the form of proxy given in subclause (4)) apply notwithstanding any contrary provision in any constitution adopted by the company.

21. Postal votes

(1) A shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause.

(2) The notice of a meeting at which shareholders are entitled to cast a postal vote shall state the name of the person authorised by the board to receive and count postal votes at that meeting.

(3) If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every director is deemed to be so authorised.

(4) A shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his or her shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice shall reach that person not less than 48 hours before the start of the meeting.

(5) It is the duty of a person authorised to receive and count postal votes at a meeting —

(*a*) to collect together all postal votes received by him or her or by the company;

(*b*) in relation to each resolution to be voted on at the meeting, to count —

(i) the number of shareholders voting in favour of the resolution and the number of votes cast by each shareholder in favour of the resolution, and

(ii) the number of shareholders voting against the resolution, and the number of votes cast by each shareholder against the resolution; and (*c*) to sign a certificate that he or she has carried out the duties set out in paragraphs (*a*) and (*b*) of this subclause and which sets out the results of the counts required by paragraph (*b*) of this subclause; and

(*d*) to ensure that the certificate required by paragraph (*c*) of this subclause is presented to the chairperson of the meeting.

(6) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting shall —

(*a*) on a vote by show of hands, count each shareholder who has submitted a postal vote for or against the resolution; or

(*b*) on a poll, count the votes cast by each shareholder who has submitted a postal vote for or against the resolution.

(7) The chairperson of a meeting shall call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.

(8) The chairperson of a meeting shall ensure that a certificate of postal votes held by him or her is annexed to the minutes of the meeting.

22. Minutes

(1) The board shall ensure that minutes are kept of all proceedings at meetings of shareholders.

(2) Minutes which have been signed correct by the chairperson of the meeting are *prima facie* evidence of the proceedings.

23. Shareholder proposals

(1) A shareholder may give written notice to the board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote.

(2) If the notice is received by the board not less than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board shall, at the expense of the company, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

(3) If the notice is received by the board not less than five working days and not more than 20 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board shall, at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

(4) If the notice is received by the board less than five working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board, the board may, if practicable, and at the expense of the shareholder, give notice of the shareholder proposal and the text of any proposed resolution to all shareholders entitled to receive notice of the meeting.

(5) If the directors intend that shareholders may vote on the proposal by proxy or by postal vote, they shall give the proposing shareholder the right to include in or with the notice given by the board a statement of not more than 1000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.

(6) The board is not required to include in or with the notice given by the board a statement prepared by a shareholder which the directors consider to be defamatory, frivolous, or vexatious.

(7) Where the costs of giving notice of the shareholder proposal and the text of any proposed resolution are required to be met by the proposing shareholder, the proposing shareholder shall, on giving notice to the board, deposit with the company or tender to the company a sum sufficient to meet those costs.

24. Corporations may act by representative

A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

25. Votes of joint holders

Where two or more persons are registered as the holder of a share, the vote of the person named first in the share register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

26. Loss of voting right if calls unpaid

If a sum due to a company in respect of a share has not been paid, that share may not be voted at a shareholder's meeting other than a meeting of an interest group.

PART B

PROCEEDINGS AT MEETINGS OF THE BOARD OF A COMPANY

27. Chairperson

(1) The directors may elect one of their number as chairperson of the board and determine the period for which he is to hold office.

(2) If no chairperson is elected, or if at a meeting of the board the chairperson is not present within five minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

28. Notice of Meeting

(1) A director or, if requested by a director to do so, an employee of the company, may convene a meeting of the board by giving notice in accordance with this clause.

(2) Not less than two days' notice of a meeting of the board must be sent by any means of communication to every director who is in Botswana, and the notice must include the date, time, and place of the meeting and the matters to be discussed.

(3) An irregularity in the notice of a meeting is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors entitled to receive notice of the meeting agree to the waiver.

29. Methods of holding meetings

A meeting of the board may be held either —

(*a*) by a number of the directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(*b*) by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

30. Quorum

(1) A quorum for a meeting of the board shall be fixed by the board and if not so fixed shall be by majority of the directors.

(2) No business may be transacted at a meeting of directors if a quorum is not present.

NOTE: The company may consider and define its own quorum as it deems fit. e.g: 1/2 or 2/3 majority of the Board of Directors or specify the number of Directors required to form a quorum.

31. Voting

(1) Every director has one vote.

(2) The chairperson does not have a casting vote.

(3) A resolution of the board is passed if it is agreed to by all directors present without dissent or if a majority of the votes cast on it are in favour of it.

(4) A director present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he expressly dissents from or votes against the resolution at the meeting.

32. Minutes

The board must ensure that minutes are kept of all proceedings at meetings of the board.

33. Resolution in writing

(1) A resolution in writing, signed or assented to by all directors then entitled to receive notice of a board meeting, is as valid and effective as if it had been passed at a meeting of the board duly convened and held.

(2) Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors.

(3) A copy of any such resolution must be entered in the minute book of board proceedings.

34. The Secretary

The Secretary shall keep all meeting minutes, records of the company and shall be responsible for their correctness. He or she will keep minutes of all General and Committee meetings. He or she shall maintain an up-to-date Register of Shareholders at all times.

PART C

SECTIONS OF THIS ACT THAT CONFER POWERS ON DIRECTORS THAT CANNOT BE DELEGATED

35. Powers that cannot be delegated

1. The powers exercised in the company shall be as contemplated in this Constitution, and such powers shall regulate and bind the company in terms of section 41 (*a*) and (*b*) of the Act.

2. The following sections confer powers on directors which cannot be delegated as per section 129 of the Act;

(*a*) section 50 (which relates to the issue of shares);
(*b*) sections 53 and 54 (which relates to the consideration for the issue of shares);
(*c*) section 58 (which relates to distributions);
(*d*) section 61 (which relates to the issue of shares in lieu of dividends);
(*e*) Section 62 (which relates to shareholder discounts);
(*f*) section 66 (which relates to offers to acquire shares);
(*g*) section 73 (which relates to the redemption of shares at the option of a company);
(*h*) section 76 (which relates to the provision of financial assistance);
(*i*) section 184 (which relates to a change of registered office);
(*j*) section 224 (which relates to the manner of approving an amalgamation proposal); and
(*k*) section 225 (which relates to short form amalgamations).

36. Controllers of the Company

2.1 The powers exercised in the company shall be under the ultimate effective control of the Board, each Director and each Shareholder, and ultimately the beneficial owners who exercise ultimate effective control in the company or hold a senior managing position.

2.2 **Annexure II** contains a list of natural persons having ultimate effective control over the company in terms of section 41 (*b*) of the Act.

Annexure I — Proxy Form

(7) The instrument appointing a proxy shall be in the following form – I/ we............................of.................................being shareholders of the above-named company hereby appoint... Or failing him/her...........................of... As my/our proxy to vote for me/us at the meeting of the company to be held on............. ....and at any adjournment of the meeting. Signed this............ ....day of..................................... 20..................

Annexure II Controllers of the Company

COMPANIES AND INTELLECTUAL PROPERTY AUTHORITY

PROTECTING BUSINESS INTERESTS

CONTROLLER'S FORM
Section 21(2)(*c*))

Name of Company Number		Company	

Important Note: If there is more than one controller, each of the controllers should fill in a separate form.

CONTROLLER'S DETAILS

Controller's Name:	
Residential Address:	
Position in the Company/ Nature of Association With company	
Percentage of Contribution Held:	
Signature	....
Date	

IMPORTANT INFORMATION

- provide full names and residential address of every beneficial owner including amount to be paid or other consideration.
- where the beneficial owner is a representative, managerial position must be disclosed.
- where some shares are to be held by a foreign company, the identification of natural persons who own, hold shares and control the foreign company must be disclosed.
- beneficial owner's interest must be expressed in percentage

Completed by:

Postal Address:

B. CONSTITUTION OF A CLOSE COMPANY
(section 37 (1))

(*NB: This constitution is intended to act as a guide and may be altered to meet specific circumstances of each company*)

COMPANY NAME:

1. Interpretation

In this constitution —
"Act" means the Companies Act;
"beneficial owner" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act; and
"ultimate effective control" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act.

2. Issue of new contributions mandate

New contributions shall be issued in accordance with section 250 with the pre-emptive rights provided for in subsections (1), (2), and (3).

3. Transfer of contributions

(1) *Freedom to Transfer is Qualified*: Every change in the ownership of contributions in the capital of the company shall be subject to the following limitations and restrictions.

(2) *Pre-emptive Provisions*: No contribution in the capital of the company shall be sold or transferred by any member unless and until the rights of pre-emption hereinafter conferred have been exhausted.

(3) *Transfer Notice and Fair Price*: It shall be required that—

(*a*) every member including the personal representative of a deceased member or the trustee of the property of an insolvent member who desires to sell or transfer any contribution or contributions shall give notice in writing to the management of such desire;

(*b*) if such notice includes several contributions it shall not operate as if it were a separate notice in respect of each such contribution, and the proposing transfer or shall be under no obligation to sell or transfer some of the contributions specified in such notice;

(*c*) such notice shall be irrevocable and shall be deemed to appoint the management the proposing transferor's agent to sell such contribution in one or more lots to any member or members of the company (including the managers or any of them) at a price to be agreed upon between the party giving such notice and the management or, failing agreement between them within 28 days of the management receiving such notice, at a fair price to be determined on the application of either party by a person to be nominated by the chairperson for the time being of the Law Society of Botswana; and

(*d*) such person, referred to in paragraph (*b*), when nominated, and in certifying the sum which in that person's opinion is the fair price for the contribution, shall be considered to be acting as an expert and not as an arbitrator.

(4) *Offer to Members and Consequent Sale*: The following conditions shall apply —

(*a*) upon the price for such contributions being agreed on or determined, as the case may be, the management shall immediately give notice to each of the members (other than the person wanting to sell or transfer such contributions) stating the —

(i) number and price of such contributions and inviting each of the members to whom the notice is given to state in writing within 21 days after the date of the notice whether such member is willing to purchase any, and

(ii) maximum number of such contributions, where such member is willing to purchase any;

(*b*) at the expiration of 21 days from the date of the notice the management shall —

(i) apportion such contributions amongst the members (if more than one) who have expressed a desire to purchase the same, and

(ii) as far as may be *pro rata* according to the number of contributions already held by the members respectively, or if there is only one such member, the whole of such contribution shall be sold to that member:

Provided that no member shall be obliged to take more than the maximum number of contribution stated in that member's response to such notice; and

(*c*) upon such apportionment being made or such one member notifying such member's willingness to purchase, as the case may be, the party desiring to sell or transfer such contribution or contributions shall be bound, upon payment of the said price, to transfer such contribution or contributions to the respective member or members who have or has agreed to purchase the same and, in default thereof, the management may receive and give a good discharge for the purchase money on behalf of the party desiring to sell and enter the name of the purchasers or purchaser in the member register as holder or holders of such contribution or contributions so sold.

(5) *Contributions on Offer not Taken up by members*: In the event of all such contributions not being sold under the preceding clause within 60 days of the management receiving notice, the party desiring to sell or transfer shall be at liberty within a further period of 30 days to sell the contributions not so sold, but not a portion only, to persons who are not members, provided however, that such party shall not sell them for a price less than the price at which the same have been offered for sale to the members under this clause, but every such sale shall nevertheless be subject to the provisions of subclause 4.

(6) *Family Transactions*: Any contribution —

(*a*) may be transferred by a member to, or to trustees for, any husband or wife or child or grandchild or son in-law or daughter in-law of that member, and any contribution of a deceased member may be transferred by his or her executors or administrators to any husband or grandchild or son in-law or daughter in-law of the deceased member; and

(*b*) held by trustees under any such trust as aforesaid may be transferred to any beneficiary, referred to in paragraph (*a*), of such trust, and contribution standing in the name of the trustee of the will of any deceased member or trustees under any such trust may be transferred upon any change of trustees for the time being of such will or trust, and the restrictions contained in the preceding subclauses 3 (2) to 3 (5) inclusive shall not apply to any transfer authorised by this clause but every such transfer shall nevertheless be subject to the provisions of clause 4.

4. Members' meetings

Members' meetings shall be conducted in accordance with Part A of this Constitution.

5. Management

(1) The management of the company shall be such person or persons as may be appointed from time to time by ordinary resolution, or by notice to the company signed by the member or members for the time being of the majority of contribution in the capital of the company but so that the total number of managers shall not at any time exceed the number fixed pursuant to subclause (2) or by ordinary resolution pursuant to subclause (3).

(2) The company may by ordinary resolution increase or reduce the number of managers.

(3) The management may appoint any person to be a manager to fill a casual vacancy or as an addition to the existing managers but the total number of managers shall not at any time exceed the number fixed in accordance with subclause (1) or by ordinary resolution pursuant to subclause (2).

(4) Any manager appointed under subclause (3) shall hold office only until the next following annual meeting and shall then retire but is eligible for election at that meeting.

(5) A manager shall hold office until removed by special resolution pursuant.

6. Remuneration of managers

The remuneration of managers shall be determined in accordance with section 265.

7. Members Distributions

(1) All members are entitled to share in the capital profits of the company in proportion to their respective interests in the company.

(2) All distributions shall be authorised by management with the approval of an ordinary resolution of members, provided that the solvency test is satisfied.

(3) The managers may deduct from any interest payable to any member, all sums of money, if any, presently payable by him to the company in relation to the contributions of the company.

8. Winding up

(1) Subject to the terms of issue of any contributions in the company and to subclause 2, upon the winding up of the company, the assets, if any, remaining after payment of the debts and liabilities of the company and the costs of winding up ("the surplus assets"), shall be distributed among the members in proportion to their contributions provided, however, that the holders of contributions not fully paid up shall only receive a proportionate interest of their entitlement being an amount paid to the company in satisfaction of the liability of the member to the company in respect of the contribution either under the constitution of the company or pursuant to the terms of issue of the contribution.

(2) Where the company is wound up, the liquidator may, with the sanction of a special resolution of the company, divide in kind amongst the members the assets of the company, whether they consist of property of the same kind or not, and may for the purpose set such value as he deems fair upon any property to be divided and may determine how the division is to be carried out as between the members.

9. One person companies and companies in which all members are managers

If at any time the company, for a continuous period exceeding six months is a one-person company, or is a company in which all members also hold office as managers, then, for so long as such circumstance continues, the following provisions shall apply —

(*a*) new contributions may be issued by unanimous resolution signed by the member or members having such rights and on such terms and conditions as may be set out in the resolution;

(*b*) a copy of the resolution shall be registered with the Registrar of Companies;and

(*c*) separate meetings of members and managers need not be held provided all matters required by the Act to be dealt with by a general meeting of members or a meeting of managers are dealt with by way of a unanimous resolution.

PART A

PROCEEDINGS AT MEETINGS OF MEMBERS

10. Chairperson

(1) If the members have elected a chairperson of the management, and the chairperson of the management is present at a meeting of members, he or she shall chair the meeting.

(2) If no chairperson of the management has been elected or if, at any meeting of members, the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the managers present shall elect one of their number to be chairperson of the meeting. If no director is willing to act as chairperson, or if no manager is present within 15 minutes of the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.

11. Notice of meetings

(1) Written notice of the time and place of a meeting of members shall be sent to every member entitled to receive notice of the meeting and to every manager, any secretary and any auditor of the company not less than 10 working days before the meeting.

(2) The notice shall state —

(*a*) the nature of the business to be transacted at the meeting in sufficient detail to enable a member to form a reasoned judgment in relation to it; and

(*b*) the text of any special resolution to be submitted to the meeting.

(3) An irregularity in a notice of a meeting is waived if all the members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such members agree to the waiver.

(4) The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a member does not invalidate the proceedings at that meeting. The chairperson may, and if directed by the meeting shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting of members is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

12. Methods of holding meetings

A meeting of members may be held either by —

(*a*) a number of members, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(*b*) means of audio, or audio and visual communication by which all members participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

13. Quorum

(1) Subject to subclause (2) of this clause, no business may be transacted at a meeting of members if a quorum is not present.

(2) A quorum for a meeting of members is present if members or their proxies are present or have cast postal votes who are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.

(3) If a quorum is not present within 60 minutes after the time appointed for the meeting –

(*a*) in the case of a meeting called under section 106 (*b*) of the Act, the meeting is dissolved;

(*b*) in the case of any other meeting the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the managers may appoint; and

(*c*) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the members or their proxies present are a quorum.

14. Voting

(1) In the case of a meeting of members held under subclause 4 (*a*) of this clause, unless a poll is demanded, voting at the meeting shall be by whichever of the following methods as determined by simple majority —

(*a*) voting by voice;

(*b*) voting by show of hands; or

(*c*) voting by ballot or by any other electronic means that is widely acceptable.

(2) In the case of a meeting of members held under subclause 4 (*b*) of this clause, unless a poll is demanded, voting at meeting shall be by the members signifying individually their assent or dissent by voice.

(3) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with subclause (5) of this clause.

(4) At a meeting of members a poll may be demanded by —

(*a*) any number of members having the right to vote at the meeting, or any other number of members as may be determined by the company in view of the total number of members in the company;

(*b*) a member or members representing not less than 10 per cent of the total voting rights of all members having the right to vote at the meeting;

(*c*) a member or members holding contribution in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all contribution that confer that right; or

(*d*) the chairperson of the meeting.

(5) A poll may be demanded either before or after the vote is taken on a resolution.

(6) If a poll is taken, votes shall be counted according to the votes attached to the contributions of each members present in person or by proxy and voting.

(7) The chairperson of a members' meeting is not entitled to a casting vote.

(8) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of a company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a member has the same effect as a demand by the member.

(9) Subject to any rights or restrictions for the time being attached to any contribution, every member present in person or by proxy and voting by voice or by show of hands and every member voting by postal vote (where this permitted) shall have one vote.

(10) The demand for a poll may be withdrawn by —

(*a*) not more than five members having the right to vote at the meeting, or any other number of members as may be determined by the company in view of the total number of members in the company;

(*b*) a member or members representing not less than 10 per cent of the total voting rights of all members having the right to vote at the meeting;

(*c*) a member or members holding contribution in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all contributions that confer that right; or

(*d*) the chairperson of the meeting.

(11) Except as provided in subclause (12), if a poll is duly demanded it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(12) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time and place as the meeting directs, and any business other than that on which a poll has been demanded may be proceeded with pending the taking of the poll.

NOTE: The subclauses of this clause, other than subclauses (7) and (9) to (12), apply notwithstanding any contrary provision in any constitution adopted by the company.

15. Proxies

(1) A member may exercise the right to vote either by being present in person or by proxy.

(2) A proxy for a member is entitled to attend and be heard at a meeting of members as if the proxy were the members.

(3) A proxy shall be appointed by notice in writing signed by the member and the notice shall state whether the appointment is for a particular meeting or a specified term.

(4) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting. Any power of attorney or other authority under which the proxy is signed or a notarial certified copy shall also be produced.

(5) A proxy form shall be sent with each notice calling a meeting of the company, and shall be issued in terms of Annexure I of this constitution.

(6) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.

NOTE: The constitution of a company may provide that a proxy is not effective unless it is produced by a specified time before the start of a meeting if the time specified is not earlier than 24 hours before the start of the meeting. Otherwise the provisions of this clause (apart from the form of proxy given in subclause (4)) apply notwithstanding any contrary provision in any constitution adopted by the company.

16. Postal votes

(1) A member may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause.

(2) The notice of a meeting at which members are entitled to cast a postal vote shall state the name of the person authorised by the board to receive and count postal votes at that meeting.

(3) If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every manager is deemed to be so authorised.

(4) A member may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his or her contributions are to be voted to a person authorised to receive and count postal votes at that meeting. The notice shall reach that person not less than 48 hours before the start of the meeting.

(5) It is the duty of a person authorised to receive and count postal votes at a meeting —

(*a*) to collect together all postal votes received by him or her or by the company;

(*b*) in relation to each resolution to be voted on at the meeting, to count —

(i) the number of members voting in favour of the resolution and the number of votes cast by each member in favour of the resolution; and

(ii) the number of member voting against the resolution, and the number of votes cast by each member against the resolution;

(*c*) to sign a certificate that he or she has carried out the duties set out in paragraphs (*a*) and (*b*) of this subclause and which sets out the results of the counts required by paragraph (*b*) of this subclause; and

(*d*) to ensure that the certificate required by paragraph (*c*) of this subclause is presented to the chairperson of the meeting.

(6) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting shall —

(*a*) on a vote by show of hands, count each member who has submitted a postal vote for or against the resolution; or

(*b*) on a poll, count the votes cast by each member who has submitted a postal vote for or against the resolution.

(7) The chairperson of a meeting shall call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.

(8) The chairperson of a meeting shall ensure that a certificate of postal votes held him or her is annexed to the minutes of the meeting.

17. Minutes

(1) The management shall ensure that minutes are kept of all proceedings at meetings of members.

(2) Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

18. Member's proposals

(1) A member may give written notice to the management of a matter the member proposes to raise for discussion or resolution at the next meeting of members at which the member is entitled to vote.

(2) If the notice is received by the management not less than 20 working days before the last day on which notice of the relevant meeting of members is required to be given by the management, the board shall, at the expense of the company, give notice of the member proposal and the text of any proposed resolution to all members entitled to receive notice of the meeting.

(3) If the notice is received by the management not less than five working days and not more than 20 working days before the last day on which notice of the relevant meeting of members is required to be given by the management, the management shall, at the expense of the member, give notice of the member proposal and the text of any proposed resolution to all members entitled to receive notice of the meeting.

(4) If the notice is received by the management less than five working days before the last day on which notice of the relevant meeting of members is required to be given by the management, the management may, if practicable, and at the expense of the member, give notice of the member proposal and the text of any proposed resolution to all members entitled to receive notice of the meeting.

(5) If the managers intend that member may vote on the proposal by proxy or by postal vote, they shall give the proposing member the right to include in or with the notice given by the management a statement of not more than 1000 words prepared by the proposing member in support of the proposal, together with the name and address of the proposing member.

(6) The management is not required to include in or with the notice given by the management a statement prepared by a member which the managers consider to be defamatory, frivolous, or vexatious.

(7) Where the costs of giving notice of the member proposal and the text of any proposed resolution are required to be met by the proposing member, the proposing member shall, on giving notice to the board, deposit with the company or tender to the company a sum sufficient to meet those costs.

19. Controllers of the Company

The powers exercised in the company shall be under the ultimate effective control of the management, each manager and each member, and ultimately the beneficial owners who exercise ultimate effective control in the company or hold a senior managing position.

Annexure II contains a list of natural persons having ultimate effective control over the company in terms of section 41 (*b*) of the Act.

Annexure I

(7) The instrument appointing a proxy shall be in the following form – I/we............................of.................................being member of the above-named company hereby appoint .... Or failing him/her............................of .... As my/our proxy to vote for me/us at the meeting of the company to be held on...and at any adjournment of the meeting.
Signed this..............................day of..................................... 20..........

Annexure II – Controllers of the Company

CONTROLLER'S FORM
Section 21 (2) (*c*))

Name of Company Number		Company	

Important Note: If there is more than one controller, each of the controller should fill in a separate form.

CONTROLLER'S DETAILS

Controller's Name:	
Residential Address:	
Nature of Association with company i.e., Nature of control	
For shareholding, state percentage of Contribution held in the company:	
Signature	....
Date	

IMPORTANT INFORMATION

- Beneficial Owner must be a natural person.
- Provide full names and residential address of every beneficial owner including amount to be paid or other consideration.
- Where the Beneficial Owner holds a managerial position in the company, the managerial position must be disclosed. Where some shares are to be held by a foreign company, the identification of natural persons who own, and/or hold shares and control the foreign company must be disclosed.

Completed by: Postal Address:

(*NB: This constitution is intended to act as a guide and may be altered to meet specific circumstances of each company.*)

COMPANY NAME:

1. Interpretation

In this constitution;
"Act" means the Companies Act;
"beneficial owner" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act; and
"ultimate effective control" has the meaning and understanding ascribed to it under section 2 of the Financial Intelligence Act.

2. Objectives of the Company

The objectives of the company shall be to promote commerce, art, science, religion, charity or any other useful object and shall be provided under Annexure III of this Constitution.

3. Members' meetings

Members' meetings shall be conducted in accordance with Part A of this Constitution.

4. Directors

(1) The directors of the company shall be such person or persons as may be appointed from time to time by ordinary resolution, or by notice to the company signed by the member or members for the time being of the majority of contribution in the capital of the company but so that the total number of directors shall not at any time exceed the number fixed pursuant to subclause (2) or by ordinary resolution pursuant to subclause (3).

(2) The first directors and the number of directors shall be determined in writing by the subscribers to the application for incorporation.

(3) The company may by ordinary resolution increase or reduce the number of directors.

(4) The director may appoint any person to be a director to fill a casual vacancy or as an addition to the existing directors but the total number of directors shall not at any time exceed the number fixed in accordance with subclause (2) or by ordinary resolution pursuant to subclause (3).

(5) Any director appointed under subclause (4) shall hold office only until the next following annual meeting and shall then retire but is eligible for election at that meeting.

(6) A director shall hold office until removed by special resolution pursuant to section 151(2) of the Act or ceasing to hold office pursuant to section 152 of the Act.

5. Remuneration of directors

The remuneration of managers shall be determined in accordance with section 157 of the Act.

6. Proceedings of director meetings

Proceedings of meetings of directors shall be conducted in accordance with Part B of this Constitution.

7. Managing Director

(1) The director may appoint one or more amongst themselves to the office of Managing Director for such period and on such terms as they think fit and subject to the terms of any agreement entered into in any particular case may revoke that appointment.

(2) If for any reason a managing director ceases to be a director his appointment shall automatically cease.

(3) A managing director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration whether by way of salary, commission or participation in profits as directors may determine.

(4) The directors may entrust to and confer upon the managing director any of the powers exercisable by them with such restrictions as they may think fit, and either generally or to the exclusion of their own powers subject always to section 129 of the Act, and the directors may revoke, alter, or vary, all or any of these powers.

8. Proceeds

The company shall not have dividends as the company intends to apply all its profits or other income in promoting the objects of the company and prohibit the payment of any dividend to its members.

9. Winding up

Subject to the terms of issue of any contributions in the company and upon the winding up of the company, the assets, if any, remaining after payment of the debts and liabilities of the company and the costs of winding up ("the surplus assets"), shall be distributed to the beneficiaries of the company to fulfil the objectives of the company.

10. One person companies and companies in which all members are directors

If at any time the company, for a continuous period exceeding six months is a one-person company, or is a company in which all members also hold office as directors, then, for so long as such circumstance continues, the following provisions shall apply —

(*a*) new contributions may be issued by unanimous resolution signed by the member or members having such rights and on such terms and conditions as may be set out in the resolution;

(*b*) a copy of the resolution shall be registered with the Registrar of Companies; and

(*c*) separate meetings of members and directors need not be held provided all matters required by the Act to be dealt with by a general meeting of members or a meeting of directors are dealt with by way of a unanimous resolution.

PART A

PROCEEDINGS AT MEETINGS OF MEMBERS

11. Chairperson

(1) If the members have elected a chairperson of the board, and the chairperson of the board is present at a meeting of members, he or she shall chair the meeting.

(2) If no chairperson of the board has been elected or if, at any meeting of members, the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their number to be chairperson of the meeting. If no director is willing to act as chairperson, or if no director is present within 15 minutes of the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.

12. Notice of meetings

(1) Written notice of the time and place of a meeting of members shall be sent to every member entitled to receive notice of the meeting and to every director, any secretary and any auditor of the company not less than 10 working days before the meeting.

(2) The notice shall state —

(*a*) the nature of the business to be transacted at the meeting in sufficient detail to enable a member to form a reasoned judgment in relation to it; and

(*b*) the text of any special resolution to be submitted to the meeting.

(3) An irregularity in a notice of a meeting is waived if all the members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such members agree to the waiver.

(4) The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a member does not invalidate the proceedings at that meeting. The chairperson may, and if directed by the meeting shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting of members is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

13. Methods of holding meetings

A meeting of members may be held either by —

(*a*) a number of members, who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(*b*) means of audio, or audio and visual communication by which all members participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

14. Quorum

(1) Subject to subclause (2) of this clause, no business may be transacted at a meeting of members if a quorum is not present.

(2) A quorum for a meeting of members is present if members or their proxies are present or have cast postal votes who are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.

(3) If a quorum is not present within 60 minutes after the time appointed for the meeting —

(*a*) in the case of a meeting called under section 106 (*b*) of the Act, the meeting is dissolved;

(*b*) in the case of any other meeting the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the directors may appoint; and

(*c*) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the members or their proxies present are a quorum.

15. Voting

(1) In the case of a meeting of members held under subclause 4 (*a*) of this clause, unless a poll is demanded, voting at the meeting shall be by whichever of the following methods as determined by the chairperson of the meeting —

(*a*) voting by voice;

(*b*) voting by show of hands; or

(*c*) voting by ballot or by any other electronic means that is widely acceptable.

(2) In the case of a meeting of members held under subclause 4 (*b*) of this clause, unless a poll is demanded, voting at meeting shall be by the members signifying individually their assent or dissent by voice.

(3) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with subclause (5) of this clause.

(4) At a meeting of members a poll may be demanded by –

(*a*) not less than five members having the right to vote at the meeting, or any other number of members as may be determined by the company in view of the total number of members in the company;

(*b*) a member or members representing not less than 10 per cent of the total voting rights of all members having the right to vote at the meeting;

(*c*) a member or members holding contribution in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all contributions that confer that right; or

(*d*) the chairperson of the meeting.

(5) A poll may be demanded either before or after the vote is taken on a resolution.

(6) If a poll is taken, votes shall be counted according to the votes attached to the contributions of each members present in person or by proxy and voting.

(7) The chairperson of a members' meeting is not entitled to a casting vote.

(8) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting of a company confers authority to demand or join in demanding a poll and a demand by a person as proxy for a member has the same effect as a demand by the member.

(9) Subject to any rights or restrictions for the time being attached to any contribution, every member present in person or by proxy and voting by voice or by show of hands and every member voting by postal vote (where this permitted) shall have one vote.

(10) The demand for a poll may be withdrawn by —

(*a*) not more than five shareholders having the right to vote at the meeting, or any other number of members as may be determined by the company in view of the total number of members in the company;

(*b*) a member or members representing not less than 10 per cent of the total voting rights of all members having the right to vote at the meeting;

(*c*) a member or members holding contribution in the company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 per cent of the total amount paid up on all contributions that confer that right; or

(*d*) the chairperson of the meeting.

(11) Except as provided in subclause (12), if a poll is duly demanded it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

(12) A poll demanded on the election of a chairperson or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken at such time and place as the meeting directs, and any business other than that on which a poll has been demanded may be proceeded with pending the taking of the poll.

NOTE: The subclauses of this clause, other than subclauses (7) and (9) to (12), apply notwithstanding any contrary provision in any constitution adopted by the company.

16. Proxies

(1) A member may exercise the right to vote either by being present in person or by proxy.

(2) A proxy for a member is entitled to attend and be heard at a meeting of members as if the proxy were the members.

(3) A proxy shall be appointed by notice in writing signed by the member and the notice shall state whether the appointment is for a particular meeting or a specified term.

(4) No proxy is effective in relation to a meeting unless —

(*a*) a copy of the notice of appointment is produced before the start of the meeting;

(*b*) A power of attorney or other authority under which the proxy is signed or a notarial certified copy are produced; and

(*c*) it is produced by a specified time before the start of a meeting if the specified time is not earlier than 24 hours before the start of the meeting.

(5) A proxy form shall be sent with each notice calling a meeting of the company, and shall be issued in terms of Annexure I of this constitution.

(6) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.

(7) A proxy is not effective unless it is produced by a specific time before the start of a meeting if the specified time is not earlier than 24 hours before the start of the meeting.

17. Postal votes

(1) A member may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause.

(2) The notice of a meeting at which members are entitled to cast a postal vote shall state the name of the person authorised by the board to receive and count postal votes at that meeting.

(3) If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every manager is deemed to be so authorised.

(4) A member may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his or her contributions are to be voted to a person authorised to receive and count postal votes at that meeting. The notice shall reach that person not less than 48 hours before the start of the meeting.

(5) It is the duty of a person authorised to receive and count postal votes at a meeting —

(*a*) to collect together all postal votes received by him or her or by the company;

(*b*) in relation to each resolution to be voted on at the meeting, to count —

  (i) the number of members voting in favour of the resolution and the number of votes cast by each member in favour of the resolution; and

  (ii) the number of member voting against the resolution, and the number of votes cast by each member against the resolution;

(*c*) to sign a certificate that he or she has carried out the duties set out in paragraphs (*a*) and (*b*) of this subclause and which sets out the results of the counts required by paragraph (*b*) of this subclause; and

(*d*) to ensure that the certificate required by paragraph (*c*) of this subclause is presented to the chairperson of the meeting.

(6) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting shall —

(*a*) on a vote by show of hands, count each member who has submitted a postal vote for or against the resolution; or

(*b*) on a poll, count the votes cast by each member who has submitted a postal vote for or against the resolution.

(7) The chairperson of a meeting shall call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.

(8) The chairperson of a meeting shall ensure that a certificate of postal votes held him or her is annexed to the minutes of the meeting.

18. Minutes

(1) The board shall ensure that minutes are kept of all proceedings at meetings of members.

(2) Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

19. Member proposals

(1) A member may give written notice to the board of a matter the member proposes to raise for discussion or resolution at the next meeting of members at which the member is entitled to vote.

(2) If the notice is received by the board not less than 20 working days before the last day on which notice of the relevant meeting of members is required to be given by the management, the board shall, at the expense of the company, give notice of the member proposal and the text of any proposed resolution to all member entitled to receive notice of the meeting.

(3) If the notice is received by the board not less than five working days and not more than 20 working days before the last day on which notice of the relevant meeting of members is required to be given by the board, the board shall, at the expense of the member, give notice of the member proposal and the text of any proposed resolution to all members entitled to receive notice of the meeting.

(4) If the notice is received by the board less than five working days before the last day on which notice of the relevant meeting of members is required to be given by the board, the board may, if practicable, and at the expense of the member, give notice of the member proposal and the text of any proposed resolution to all members entitled to receive notice of the meeting.

(5) If the directors intend that members may vote on the proposal by proxy or by postal vote, they shall give the proposing member the right to include in or with the notice given by the board a statement of not more than 1000 words prepared by the proposing member in support of the proposal, together with the name and address of the proposing member.

(6) The board is not required to include in or with the notice given by the board a statement prepared by a member which the directors consider to be defamatory, frivolous, or vexatious.

(7) Where the costs of giving notice of the member proposal and the text of any proposed resolution are required to be met by the proposing member, the proposing member shall, on giving notice to the board, deposit with the company or tender to the company a sum sufficient to meet those costs.

20. Corporations may act by representative

A body corporate which is a member may appoint a representative to attend a meeting of members on its behalf in the same manner as that in which it could appoint a proxy.

21. Loss of voting right if calls unpaid

If a sum due to a company in respect of a contribution has not been paid, that contribution may not be voted at a member's meeting other than a meeting of an interest group.

PART B

PROCEEDINGS AT MEETINGS OF THE BOARD OF A COMPANY

22. Chairperson

(1) The directors may elect one of their number as chairperson of the board and determine the period for which he is to hold office.

(2) If no chairperson is elected, or if at a meeting of the board the chairperson is not present within five minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

23. Notice of Meeting

(1) A director or, if requested by a director to do so, an employee of the company, may convene a meeting of the board by giving notice in accordance with this clause.

(2) Not less than two days' notice of a meeting of the board must be sent by any means of communication to every director who is in Botswana, and the notice must include the date, time, and place of the meeting and the matters to be discussed.

(3) An irregularity in the notice of a meeting is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors entitled to receive notice of the meeting agree to the waiver.

24. Methods of holding meetings

A meeting of the board may be held either —

(*a*) by a number of the directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or

(*b*) by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

25. Quorum

(1) A quorum for a meeting of the board shall be fixed by the board and if not so fixed shall be by majority of the directors.

(2) No business may be transacted at a meeting of directors if a quorum is not present.

NOTE: The company may consider and define its own quorum as it deems fit. e.g: 1/2 or 2/3 majority of the Board of Directors or specify the number of Directors required to form a quorum.

26. Voting

(1) Every director has one vote.

(2) The chairperson does not have a casting vote.

(3) A resolution of the board is passed if it is agreed to by all directors present without dissent or if a majority of the votes cast on it are in favour of it.

(4) A director present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he expressly dissents from or votes against the resolution at the meeting.

27. Minutes

The board must ensure that minutes are kept of all proceedings at meetings of the board.

28. Resolution in writing

(1) A resolution in writing, signed or assented to by all directors then entitled to receive notice of a board meeting, is as valid and effective as if it had been passed at a meeting of the board duly convened and held.

(2) Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors.

(3) A copy of any such resolution must be entered in the minute book of board proceedings.

29. Secretary

The Secretary shall keep all meeting minutes, records of the company and shall be responsible for their correctness. He or she will keep minutes of all General and Committee meetings. He or she shall maintain an up-to-date Register of members at all times.

30. Controllers of the Company

(*a*) The powers exercised in the company shall be under the ultimate effective control of the Board, each Director and each member, and ultimately the beneficial owners who exercise ultimate effective control in the company or hold a senior managing position.

(*b*) Annexure II contains a list of natural persons having ultimate effective control over the company in terms of section 41 (*b*) of the Act.

Annexure I – Proxy Form

The instrument appointing a proxy shall be in the following form – I/we............................ of.................................being member of the above-named company hereby appoint .... Or failing him/ her...........................of .... As my/our proxy to vote for me/us at the meeting of the company to be held on............................ ....and at any adjournment of the meeting.

Signed this..............................day of.................................... 20.........

Annexure – II Controllers of the Company

CONTROLLER'S FORM
Section 21 (2) (*c*))

Name of Company Number		Company	

Important Note: If there is more than one controller, each of the controllers should fill in a separate form.

CONTROLLER'S DETAILS

Controller's Name:	
Residential Address:	
Nature of Association with company i.e., Nature of control	
For shareholding, state percentage of Contribution held in the company:	
Signature	....
Date	

IMPORTANT INFORMATION

- Beneficial Owner must be a natural person.
- Provide full names and residential address of every beneficial owner including amount to be paid or other consideration.
- Where the Beneficial Owner holds a managerial position in the company, the managerial position must be disclosed. Where some shares are to be held by a foreign company, the identification of natural persons who own, and/or hold shares and control the foreign company must be disclosed.

Completed by: Postal Address:

Annexure III – Objectives of a Company Limited by Guarantee

OBJECTIVES OF A COMPANY LIMITED BY GUARANTEE:

.”; and

(*b*) deleting the Second, Third and Fourth Schedules.

PASSED by the National Assembly this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO
G. MALEBANG,
Clerk of the National Assembly.

VIRTUAL ASSETS ACT, 2025

No. 4 **of 2025**

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An Act to regulate the sale and trade of virtual assets, licensing of virtual asset service providers and issuers of initial token offerings, and to provide for matters connected, incidental and related thereto.

Date of Assent: 24.01.2025
Date of Commencement: 24.01.2025
ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title and commencement

1. This Act may be cited as the Virtual Assets Act, 2025, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Interpretation

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

"asset" means a property of any kind;

"asset token" means a token that represents a claim against the issuer which —

(*a*) is intended to represent an asset and is embedded with underlying assets;
(*b*) derives its value by reference to an underlying asset;
(*c*) is secured by an underlying asset; or
(*d*) is backed up by assets held as collateral for the primary purpose of encouraging price stability;

"beneficiary" in respect of a transfer of virtual assets means the person who will own the virtual asset on completion of a transfer;

"beneficial owner" has the same meaning assigned to it under the Financial Intelligence Act, and "beneficial interest" shall be construed accordingly; Cap. 08:07

"blockchain" means a virtual or digital distributed ledger or database of transactions relating to virtual assets which are recorded chronologically and capable of being audited;

"Central Bank" means the Bank of Botswana established under the Bank of Botswana Act; Cap. 55:10

"comparable body" means a body outside Botswana which has functions similar to those of the Regulatory Authority with respect to the regulation and licensing of a virtual asset business;

"competent authority" has the meaning assigned to it under the Financial Intelligence Act;

"customer" has the meaning assigned to it under the Financial Intelligence Act;

"cyber security event" means any event that results in unauthorised access to, misuse or disruption of the electronic systems or information stored on such systems of a virtual asset service provider leading to loss, unlawful destruction or unauthorised disclosure of or access to such systems or information;

"distributed ledger technology" —
(*a*) means a virtual or digital ledger in which data is recorded, consensually shared and synchronised across a network of multiple nodes or sites accessible by multiple persons; and
(*b*) includes a distributed ledger technology platform or software program that operates on a blockchain or similar technology;

"distributed ledger technology platform" means an online mechanism for the sale, trade or exchange of virtual assets offered by a virtual asset service provider to its customers;

"fiat currency" means —
(*a*) notes, coins or tokens issued into circulation by the Central Bank in terms of the Bank of Botswana Act; and
(*b*) notes, coins or money of a jurisdiction that is designated by the Government of that jurisdiction as a legal tender;

"financial institution" has the meaning assigned to it under the Bank of Botswana Act;

"financial year" means —

(*a*) in respect of a licence holder's first financial year, a period not exceeding 18 months from the date of issue of a licence to the licence holder and, in respect of every subsequent financial year, a period not exceeding 12 months; and

(*b*) where there is a change in its financial year, a period not exceeding 18 months;

"founder" means a person who is entitled to a significant interest in the issuer or organiser, and includes a beneficial owner if different from the issuer or organiser;

"initial token offerings" means an offer to the public, by an issuer, for the sale of a virtual token in exchange for fiat currency or another virtual asset;

Cap. 56:08

"insider" has the meaning assigned to it under the Securities Act;

"inspector" means an inspector appointed under section 6 and includes an investigator;

"issuer" means a person contractually responsible for issuing a virtual token;

"licence" means a licence issued in terms of this Act;

"licence holder" means a person issued with a licence under section 11;

"market abuse" means —

(*a*) insider dealing;

(*b*) the unlawful disclosure of insider information; or

(*c*) market manipulation in relation to any transaction, order or behaviour concerning a virtual asset;

"non-fungible token" means a unique digital asset stored on a blockchain and serves as a verifiable proof of ownership for a specific item, artwork or collectible;

"offer" means a document, notice, circular, advertisement, prospectus or white paper issued to the public or otherwise publicly accessible —

(*a*) inviting applications or offers to subscribe for or purchase virtual assets; or

(*b*) offering virtual assets for subscription or purchase;

"officer" means a member of the board of directors, a chief executive, a chief financial officer, a senior executive, a manager, a partner, a money laundering reporting officer, a risk officer, a chief technical officer or any other person holding a similar function;

"organiser" means a person who, if different from the issuer, whether alone or in conjunction with other persons, procures the issuance of virtual assets through an issuer on behalf of a customer;

"originator", in respect of a transfer of virtual assets means —

(*a*) the person that places an order with a virtual asset service provider for the transfer of virtual assets; or

(*b*) where the transfer is carried out by a virtual asset service provider on behalf of a third party, the third party who owned the virtual asset immediately prior to the transfer;

"property" has the meaning assigned to it under the Proceeds and Instruments of Crime Act; Cap. 08:03

"Regulatory Authority" means the Non-Bank Financial Institutions Regulatory Authority established under the Non-Bank Financial Institutions Regulatory Authority Act; Cap. 46:08

"security" has the meaning assigned to it under the Securities Act; Cap. 56:08

"significant interest" means beneficial interests cumulatively representing more than 10 per cent of the issued and outstanding equity interests of the organiser, issuer or beneficial owner;

"token" means any cryptographically secured digital representation of one or more rights provided on a digital distribution ledger platform or similar platform and issued by an issuer, and includes —

(*a*) a virtual currency token;

(*b*) an asset token;

(c) a non-fungible token; and

(*d*) any other digital representation of value designated by the Regulatory Authority to be a virtual token for the purposes of this Act;

"virtual asset" —

(*a*) means a digital representation of value that —

(i) may be digitally traded or transferred, and may be used for payment or investment purposes, or

(ii) is distributed through a distributed ledger technology where value is embedded or in which there is a contractual right of use, and includes virtual tokens; and

(*b*) excludes —

(i) a digital representation of legal tender as provided for under the Bank of Botswana Act, and

(ii) securities and other financial assets that are regulated under the Securities Act;

"virtual asset business" includes a trade or business that —

(*a*) operates as an issuer of initial token offerings;

(*b*) provides services related to a virtual token exchange;

(*c*) operates as a payment service provider utilising virtual assets;

(*d*) safe keeps or administers virtual assets or instruments enabling control over virtual assets;

(*e*) provides advice in relation to virtual assets;

(*f*) that operates as a virtual asset service provider, including providing a distributed ledger platform which facilitates the —

(i) exchange between virtual assets and fiat currency,

(ii) exchange between one or more forms of virtual assets, and

(iii) transfer of virtual assets; or

(*g*) participates in and provides financial services related to an issuer's offer or sale of a virtual asset;

"virtual assets custody service" means the acceptance for safekeeping of virtual assets or instruments that enable a virtual asset service provider to exercise control over the virtual assets or instruments;

"virtual asset exchange" means a marketplace using the distributed ledger technology platform for the sale, trade, transfer or exchange of a virtual asset for fiat currency or another virtual asset;

"virtual asset service" means a service provided in relation to a virtual asset business or transaction;

"virtual asset service provider" means a person who —

(*a*) under an agreement, as part of a business, undertakes a virtual asset service or any of the following activities for or on behalf of another person —

(i) the exchange between virtual assets and fiat currencies,

(ii) the exchange between one or more forms of virtual assets,

(iii) the transfer of virtual assets,

(iv) the safekeeping or administration of virtual assets or instruments enabling control over virtual assets, and

(v) the participation in and provision of financial services related to an issuer's offer or sale of a virtual asset; or

(*b*) is a dealer or is willing to deal, on own account, by buying and selling virtual assets at prices set by that person, and includes a —

(i) market maker or liquidity provider,

(ii) system that provides virtual liquidity, allowing traders to buy and sell derivatives on the blockchain, or

(iii) virtually automated market maker; and

"virtual currency token" means a digital representation of value which is digitally traded and functions as a —

(*a*) medium of exchange;

(*b*) unit of account; or

(*c*) store of value.

(2) This Act is declared to be a financial services law for purposes of the Non-Bank Financial Institutions Regulatory Act.

3. (1) This Act shall apply to any virtual asset service provider and to any issuer of initial token offerings, that carries out its business into or from Botswana, irrespective of the physical location from which the activity is carried out.

Application of Act

(2) This Act shall not apply to —

(*a*) a person only by reason of that person acting in a professional capacity on behalf of persons engaged in procuring the organisation, promotion, issuance, sale or trade of virtual assets;

(*b*) transactions or virtual assets in which a person grants a value as part of an affinity or rewards program, which value cannot be taken from or exchanged with the person for legal tender, bank credit or any virtual asset;

(*c*) a digital representation of value issued by or on behalf of the publisher of an online game, game platform or game, and used within an online game, game platform or game sold by the same publisher or offered on the same game platform;

(*d*) non-fungible tokens;

(*e*) electronic representations of fiat currency, security or any other financial asset under the Bank of Botswana Act or Securities Act; or

(*f*) a person who provides ancillary services or products to a virtual asset service provider.

(3) The Regulatory Authority may, by Order published in the *Gazette*, determine that a jurisdiction is equivalent in terms of the application of this Act, Regulations and any rules made in terms of this Act.

PART II — *Functions and Powers of the Regulatory Authority*

4. (1) The Regulatory Authority shall —

Functions of Regulatory Authority

(*a*) license virtual asset service providers and issuers of initial token offerings;

(*b*) regulate, monitor and supervise the issuance of virtual assets and persons conducting virtual asset business in Botswana;

(*c*) develop rules, guidance and codes of practice in connection with the conduct of virtual asset business and initial token offerings;

(*d*) advise the Minister on all matters relating to virtual assets business;

(*e*) promote investor education and other conditions that facilitate innovation and development of virtual asset businesses within Botswana;

(*f*) publish notices, guidelines, bulletins and policies regarding the interpretation, application and enforcement of this Act;

(g) in collaboration with the Central Bank, ensure the financial soundness and stability of the financial system in Botswana in respect of virtual assets;

(*h*) give directions to, and take enforcement action against, a licence holder; and

(*i*) do such other acts and things as may be necessary for the purposes of this Act.

(2) The Minister, may, on the recommendation of the Regulatory Authority, by Order published in the *Gazette*, set up such advisory bodies as may be necessary to examine and report on any matter in respect to the administration of this Act.

Request for information

5. (1) The Regulatory Authority may, by notice in writing, require a person to furnish to the Regulatory Authority, at such time and place and in such form as may be prescribed, information and documentation, with respect to —

(*a*) a virtual asset business;

(*b*) an offer, pursuant to section 28; or

(*c*) a beneficial owner of a virtual asset business.

(2) A person in subsection (1), may include —

(*a*) any person who is, was or appears to be or to have been, a virtual asset service provider or issuer of initial token offerings;

(*b*) an agent of a virtual asset service provider or issuer of initial token offerings;

(*c*) an intermediary involved in a virtual asset service; or

(*d*) a person who issues, or appears to have issued, an offer.

(3) The Regulatory Authority may, request a virtual asset service provider or issuer of initial token offerings to attend before the Authority, or before a person appointed by the Regulatory Authority, at such time and place as it may specify, to answer questions and provide information and documentation with respect to a virtual asset, initial token offering or an offer issued by the virtual asset provider or issuer of initial token offerings.

(4) Where a person is appointed under subsection (3), such person shall, for the purposes of carrying out his or her functions, have all the powers conferred on the Regulatory Authority under this section, and a requirement made by such person shall be deemed to have the same force and effect as a requirement made by the Regulatory Authority.

(5) Where the person required to provide information or documentation under this section does not have the relevant information or documentation, the person shall, to the best of his or her knowledge disclose to the Regulatory Authority where that information or documentation may be found, and the Regulatory Authority may require any person who appears to be in possession of that information or documentation to provide it.

Appointment of inspectors

6. (1) The Regulatory Authority may, whenever it deems it necessary or expedient, appoint an inspector or inspectors to investigate and report on the activities or operations of a virtual asset business or licence holder.

(2) An inspector appointed in terms of subsection (1) —

(*a*) may exercise all the powers conferred on the Regulatory Authority under this Part, and any requirement made by the inspector shall have the same effect as a requirement made by the Regulatory Authority; and

(*b*) shall submit a report of his or her investigations under this section to the Regulatory Authority, within one month after the conclusion of the investigations.

7. (1) An inspector appointed in terms of section 6 may, on producing evidence of his or her authority, enter premises occupied by a person on whom a notice has been issued under section 5 or whose virtual asset business is being investigated under section 6, for the purposes of — Right of entry

(*a*) obtaining information or documents required under the notice;
(*b*) the investigation; or
(*c*) exercising any of the powers conferred by sections 5 and 6.

(2) Where an inspector has reasonable cause to believe that if the notice to be issued in terms of section 5 would not be complied with or that any documents to which it could relate would be removed, tampered with or destroyed, the inspector may, on producing evidence of his or her authority, enter any premises referred to in subsection (1) for the purpose of obtaining any information or documents, being information or documents that could have been required under such notice as is referred to under section 5.

(3) For the purposes of any action taken under the provisions of this section, the Regulatory Authority may request the assistance of the Commissioner of Police, who may for such purpose, exercise such powers as are vested in the Botswana Police Service for the prevention of offences and the enforcement of law and order.

PART III — *Licensing of Virtual Asset Businesses*

Virtual asset business

8. A person shall not carry out a virtual asset business, unless the person is incorporated under the laws of Botswana and licensed in accordance with this Act to offer a virtual asset service to persons in or outside Botswana.

Prohibition of unlicensed virtual asset business

9. A person shall not carry out or participate in a virtual asset business, unless the person is the holder of a virtual asset service provider licence or issuer of initial token offerings licence, issued in terms of section 11.

Application for licence

10. (1) A person who wishes to carry out or participate in a virtual asset business may apply for a virtual asset service provider licence, issuer of initial token offerings licence.

(2) An application in subsection (1) shall —

(*a*) be in such form and manner as may be prescribed;
(*b*) specify the licence applied for;
(*c*) be accompanied by —
  (i) proof of the applicant's registration with a comparable body, where applicable,
  (ii) a certificate of incorporation,
  (iii) a business plan, including financial and operational projections, setting out the nature and scale of the virtual asset business activities proposed to be carried out, technological requirements and where applicable, staffing requirements,
  (iv) particulars of the applicant's arrangements for the management of the virtual asset business,

(v) policies and measures to be adopted by the applicant to meet the obligations under this Act and the Financial Intelligence Act,

(vi) particulars and information relating to customer due diligence of each organiser, issuer, founder, investor, beneficial owner, security holder, director and officer of the virtual asset business, and

(vii) such fee as may be prescribed.

(3) Where a person is carrying out a virtual asset business which involves activities requiring more than one class of licence, that person must apply for each relevant class of licence and comply with the rules applicable to each class of licence.

(4) A bank licensed under the Banking Act may, with the approval of the Central Bank, make an application to the Regulatory Authority for a virtual asset custodian licence.

(5) A subsidiary of a bank licensed under the Banking Act may, with the approval of the Central Bank, make an application to the Regulatory Authority for a virtual asset service provider licence.

(6) An applicant may withdraw an application by giving seven days' written notice to the Regulatory Authority at any time before the determination of the application.

(7) The Regulatory Authority may require any information submitted in connection with an application to be verified and the cost of such verification shall be borne by the applicant.

Issue of licence

11. (1) The Regulatory Authority may, on application made under section 10, issue a licence where —

(*a*) the applicant, its beneficial owners, their associates and officers are fit and proper persons to carry out virtual asset business activities for which the licence is sought; and

(*b*) the applicant has adequate resources, infrastructure, staff with the appropriate competence, experience and proficiency to carry out the business activities of a virtual asset service provider or issuer of initial token offerings.

(2) The Regulatory Authority shall, in addition to the other relevant requirements under the Financial Intelligence Act or other related enactments, when determining whether a person is fit and proper under subsection (1), have regard to the —

(*a*) financial status or solvency of the person;

(*b*) education or other qualifications and experience of the person, taking into account the nature of the role or functions that the person will perform;

(*c*) ability of the person to carry on the virtual asset business competently, honestly and fairly;

(*d*) ability of the person to ensure a satisfactory standard of governance and operational conduct; and

(*e*) reputation and character —

(i) of person, where the person is a natural person, or

(ii) where the person is a legal person, its directors, shareholders, senior management or any other officer.

(3) The Regulatory Authority may, in addition to subsection (2), take into account —

(*a*) the virtual asset business activities proposed to be carried out by the applicant;

(*b*) the capacity of the applicant to carry out the business activities;

(*c*) any standard relating to a virtual asset business;

(*d*) any information obtained from a competent authority or comparable body;

(*e*) whether the granting of a licence to the applicant may pose a risk to purchasers, investors or the public; and

(*f*) the capacity of the applicant to supervise everything done under the licence so as to ensure compliance with this Act and the conditions of the licence.

(4) The Regulatory Authority may issue an applicant a licence in such form and manner as may be prescribed, and upon payment of the prescribed fee.

Licence holder to have physical office in Botswana

12. (1) A virtual asset service provider licensed under this Act, shall conduct its business activities in a physical office located in Botswana.

(2) In determining whether a virtual asset provider has complied with the requirement under subsection (1), the Regulatory Authority may consider the following factors —

(*a*) where the strategy, risk management and operational decision making of the virtual asset service provider occurs;

(*b*) whether the executives or officers who are responsible for and involved in the decision-making related to the virtual asset business are resident in Botswana;

(*c*) where meetings of the board of directors takes place; and

(*d*) where the management, executives and officers who are responsible for, and involved in, the decision making related to the business activities of the virtual asset service provider meet to make policy decisions.

Application for variation of conditions of licence

13. (1) A licence holder may make an application to the Regulatory Authority in such form and manner as may be prescribed and upon payment of such fee as may be prescribed, to vary or remove directions or conditions attached to the licence issued to the licence holder.

(2) Where the Regulatory Authority makes the decision to vary any condition to which the licence is subject to or refuse the application under subsection (1), the Regulatory Authority shall, within seven days give the licence holder its decision.

Request to cease virtual asset business

14. (1) A licence holder may, in such form and manner as may be prescribed, make a request to cease activities or operations as a virtual asset service provider or issuer of initial token offerings.

(2) A licence holder under subsection (1) shall, within seven days of submitting the request, submit a written plan to the Regulatory Authority setting out the steps the licence holder will follow to cease the virtual asset business.

(3) The plan in subsection (2) shall state —

(*a*) the full names and physical address of the person who will manage the licence holder's cessation of the virtual asset business;

(*b*) the period required to cease the business operations;

(*c*) the manner in which customer files or accounts will be closed and secured;

(*d*) customer notification procedures;

(*e*) customer transfer procedures, if applicable.

(4) The Regulatory Authority shall, upon receipt of the plan under subsection (2), supervise and monitor the execution of the plan.

(5) The Regulatory Authority may, in the public interest and for purposes of this section, give directions to the licence holder and the licence holder shall comply with such directions.

Suspension or revocation of licence

15. The Regulatory Authority may, at any time, suspend or revoke a licence, where —

(*a*) the Regulatory Authority considers that the licence holder is not a fit and proper person to provide a virtual asset service or issue initial token offering in terms of this Act;

(*b*) the Regulatory Authority considers that the licence holder does not fulfill the requirements of, or has contravened, any of the provisions of this Act, or has failed to satisfy or comply with any obligation or condition to which the licence is subject to;

(*c*) the Regulatory Authority is furnished, by or on behalf of the licence holder, with information which is false, inaccurate or misleading;

(*d*) the licence holder has obtained the licence by making false statements or by any other irregular means;

(*e*) the licence holder has not commenced the virtual asset business that the licence holder is authorised to provide within 12 months, from the date of issue of the licence, or has ceased to provide the virtual asset service;

(*f*) the Regulatory Authority considers it desirable to suspend or revoke the licence for the protection of customers and the public;

(*g*) a licence holder makes a request for the suspension or revocation of the licence; or

(*h*) a competent authority or comparable body makes a request for the suspension or revocation of the licence:

Provided that upon receipt of the written request, the Regulatory Authority may conduct its own investigation in terms of sections 6 and 7.

Notice of intention to suspend or revoke licence

16. (1) Where the Regulatory Authority makes a decision to —

(*a*) vary any condition to which the licence is subject to or to impose a condition on the licence; or

(*b*) suspend or revoke a licence,

the Regulatory Authority shall give the licence holder 21 days' written notice of its intention to do so, setting out the reasons for the decision it proposes to take.

(2) A licence holder may, within 14 days after receipt of the notice given under subsection (1), make written representations to the Regulatory Authority, stating reasons why the proposed decision should not be taken, and the Regulatory Authority shall consider any representation so made before arriving at a final decision.

(3) The Regulatory Authority may, where it is satisfied that the licence holder fulfills the requirements of this Act, lift the suspension on such conditions as it may consider necessary, including varying any condition to which the licence is subject or imposing further conditions thereon.

Suspension or revocation of licence without notice

17. (1) Notwithstanding section 16, the Regulatory Authority may —

(*a*) suspend a licence, without notice, where the Regulatory Authority considers that an immediate suspension is necessary to protect the public;

(*b*) revoke a licence, without suspension, where the licence holder has made a request for the revocation; or

(*c*) immediately revoke a licence, without suspension, where the Regulatory Authority considers it necessary to do so in the public interest for purposes of section 15 (*a*) to (*d*), (*f*) and (*h*).

(2) The Regulatory Authority shall, as soon as is practicable, notify a licence holder of its decision, in writing.

Notification of revocation, winding up, etc.

18. Where the Regulatory Authority revokes a licence in terms of section 17 (1) (*c*), the Regulatory Authority —

(*a*) shall, as may be necessary for purposes of the Financial Intelligence Act, notify comparable bodies and competent authorities of the revocation;

(*b*) shall, by notice in the *Gazette*, notify the public of the revocation; and

(*c*) may make a written request to a competent authority for immediate deregistration, dissolution or winding up of the licence holder.

Assignment and transfer of licence or beneficial ownership

19. (1) A licence holder who wishes to assign or transfer —

(*a*) a licence issued under section 11; or

(*b*) beneficial ownership in a virtual asset business, shall,

in such form and manner as may be prescribed, and on payment of a prescribed fee, make an application to the Regulatory Authority for the assignment or transfer of the licence or beneficial ownership.

(2) An assignment or transfer made by a licence holder in contravention of subsection (1), shall be null and void and constitute sufficient grounds for the Regulatory Authority to revoke the licence.

Information on assignment or transfer of licence or beneficial ownership

20. (1) Where the Regulatory Authority, pursuant to an application made under section 19, grants approval for the assignment or transfer of a licence or beneficial ownership —

(*a*) the founder shall obtain and hold the required and accurate information on the transfer, including the required and accurate information on beneficial owners;

(*b*) the founder shall submit the required and accurate information obtained and held pursuant to paragraph (*a*) to a beneficial owner, other than a financial institution, immediately and securely; and

(*c*) the beneficial owner shall obtain and hold the required and accurate information on the assignment or transfer.

(2) A founder and beneficial owner shall record the information to be obtained and held pursuant to subsection (1) in such form and manner as may be prescribed and make it readily available to the Regulatory Authority and to a competent authority or comparable body upon request.

(3) The founder and beneficial owner shall, before executing the transfer of the licence or beneficial ownership, ensure that the founder has risk-based policies and procedures in place for the purposes of determining whether the information required to effect the transfer is —

(*a*) complete; or

(*b*) consistent with the virtual asset service provider or issuer of initial token offerings' own records.

Register of virtual asset service providers and issuers of virtual token offerings

21. (1) The Regulatory Authority shall establish and maintain, in such form and manner as may be prescribed, a register of persons licensed under this Part, to carry on a virtual asset business.

(2) Without limiting the generality of subsection (1), the register shall state —

(*a*) the full names and physical address of the licence holder, including the address of the virtual asset business, if different;

(*b*) the licence, in respect of the virtual asset business, held by a licence holder, including any licence issued, or registration, by a comparable body with respect to the virtual asset business;

(*c*) the virtual asset services provided by the licence holder;

(*d*) the name and physical address of every organiser, issuer, founder, investor, beneficial owner, security holder, director and officer of the virtual asset business;

(*e*) any conditions imposed by the Regulatory Authority on the virtual asset business or licence; and

(*f*) any other information as the Regulatory Authority may consider necessary.

(3) The register kept in terms of subsection (1) shall be open for inspection to any member of the public upon payment of a prescribed fee.

(4) A licence holder to which an entry in the register relates, shall as soon as practicable after the licence holder becomes aware of any error in the entry or any change in circumstances that is likely to have a bearing on the accuracy of the entry, give notice in writing, to the Regulatory Authority of the error or change in circumstances, as the case may be.

PART IV — *Obligations of Licence Holders*

Appointment of officers of virtual asset service provider

22. (1) A virtual asset service provider shall appoint the following officers —

(*a*) a Chief Executive Officer;
(*b*) a finance officer;
(*c*) a compliance officer; and
(*d*) an anti-money laundering reporting officer.

(2) A virtual asset service provider shall not appoint the same individual to more than one role in the business, without the prior approval of the Regulatory Authority.

(3) The Regulatory Authority may direct a virtual asset service provider to appoint additional positions in the business, taking into account the nature of the business conducted by the virtual asset service provider.

(4) A virtual asset service provider shall not appoint an officer under this section, unless such person is —
(*a*) a natural person resident in Botswana; and
(*b*) a fit and proper person.

(5) A virtual asset service provider shall provide the necessary documentation to the Regulatory Authority, when seeking approval for the appointment of the officers referred to in subsections (1) and (3) as proof that the officers are suitably qualified, competent and resourced to perform their roles.

(6) Where the information in the documentation provided in terms of subsection (5) changes, the virtual asset service provider shall notify the Regulatory Authority of the changes within 14 days of the change, in writing.

(7) Where the Regulatory Authority is satisfied that an officer appointed under this section is not a fit and proper person, the Regulatory Authority shall direct the virtual asset service provider to terminate the appointment of the officer, by following the necessary termination of employment procedures provided for in the contract of employment of the officer.

(8) Where a virtual asset service provider fails to comply with the provisions of this section, the virtual asset service provider commits an offence and is liable to the penalties specified under section 36.

Custody and protection of customer assets

23. (1) A licence holder that has custody of one or more virtual assets for a customer shall —
(*a*) maintain, in its custody, a sufficient amount of each type of virtual asset in order to meet the licence holder's obligations to the customer; and
(*b*) meet all financial requirements, as may be prescribed.

(2) The virtual asset referred to in subsection (1) shall —
(*a*) be held by the licence holder for the customer entitled to the virtual asset;
(*b*) not be the property or virtual asset of the licence holder; and
(*c*) not be subject to the claims of creditors of the licence holder.

(3) Where a licence holder's business model or service provided involves holding customer's funds, the licence holder shall have adequate arrangements in place to safeguard the rights of customers and prevent the use of customer's funds for their own account.

Prevention of market abuse

24. (1) A licence holder shall establish systems and controls in the virtual asset business that are adequate and appropriate for the scale and nature of the business activities, including systems and controls which adequately and appropriately address the —

(*a*) recording, storing, protection and transmission of information;

(*b*) monitoring of transactions;

(*c*) operation of the measures taken for securing the timely discharge, whether by performance, compromise or otherwise, of the rights and liabilities of the parties to transactions;

(*d*) safeguarding and administration of virtual assets belonging to customers; and

(*e*) business continuity and planning, in the event of a disruption of a virtual asset.

(2) Subject to subsection (1), a licence holder shall have systems and controls to detect —

(*a*) suspicious price spikes or anomalies; and

(*b*) abusive or illicit trading strategies.

(3) A licence holder shall —

(*a*) notify the Regulatory Authority as soon as reasonably practicable of any abusive trading activities or market manipulative activities on its virtual asset exchange; and

(*b*) have in place appropriate measures to combat abusive trading and market manipulation.

(4) A licence holder shall establish and maintain a business continuity plan, outlining the arrangements to minimise the impact of disruption to its virtual asset business, and such plan shall have the following details —

(*a*) resource requirements;

(*b*) the licence holder's priority for recovery; and

(*c*) communication arrangements.

Acquisition of beneficial interest in licence holder

25. (1) A person who desires to directly or indirectly, acquire a beneficial interest in a licence holder shall make an application, to the Regulatory Authority, in such form and manner as may be prescribed and upon payment of a prescribed fee, for the acquisition of such interest.

(2) An application made in terms of subsection (1) shall include sufficient information to enable the Regulatory Authority to consider the proposed acquisition in relation to —

(*a*) the nature of the proposed acquisition;

(*b*) who the proposed beneficial owner is and any person who has control or management of the beneficial owner; and

(*c*) how the proposed acquisition is to be financed.

(3) In assessing a proposed acquisition, the Regulatory Authority shall have regard to —

(*a*) the likely influence of the proposed beneficial owner on the licence holder;

(*b*) the suitability of the proposed beneficial owner and the financial soundness of the proposed acquisition; and

(*c*) whether there are reasonable grounds to suspect that the acquisition is a suspicious transaction.

(4) The Regulatory Authority may, where it grants or refuses to grant approval on the proposal to acquire a beneficial interest in a licence holder, inform the proposed beneficial owner, in writing, and shall give reasons for the grant or refusal of the approval.

(5) For the purposes of this section, "suspicious transaction" has the same meaning assigned to it under the Financial Intelligence Act.

Transfer of virtual assets

26. (1) A licence holder shall not undertake a transfer of virtual assets, unless such transfer is undertaken in form and such manner as may be prescribed.

(2) Where a licence holder transfers virtual assets to another virtual asset service provider, the licence holder shall —

(*a*) obtain and keep in its records, accurate information about the beneficiary of the virtual asset transfer; and

(*b*) immediately submit the information under paragraph (*a*) to the Regulatory Authority.

(3) A licence holder that receives into or sends out of Botswana, virtual assets equal to or in excess of the amount prescribed under the Financial Intelligence Act, through a transfer, on behalf of or on the instruction of a customer or any person, shall submit a report on the transaction to the Financial Intelligence Agency.

(4) A report submitted to the Financial Intelligence Agency in terms of subsection (2) shall contain such documentation and information, as may be prescribed.

(5) Subject to subsection (1), an intermediary involved in a virtual asset service who participates in wire transfers of virtual assets shall —

(*a*) take reasonable measures to identify transfers of virtual assets that lack the required beneficiary information;

(*b*) adopt risk-based policies and procedures to determine when to execute, reject or suspend a transfer lacking the required information; and

(*c*) keep records for the length of period as provided for under the Financial Intelligence Act, after the completion of the transaction to which it relates.

(6) A licence holder shall, when undertaking a domestic or cross-border transfer of virtual assets, submit the following information to the Regulatory Authority —

(*a*) the name of the originator;

(*b*) the originator's virtual asset wallet address or account number or, where there is no account number, a unique transaction reference number;

(*c*) the originator's address and national identity or customer identification number and date and place of birth;

(*d*) the name of the beneficiary;

(*e*) the beneficiary's virtual asset wallet address or account number or, where there is no account number, a unique transaction reference number;

(*f*) the purpose of the transfer; and

(*g*) any other information as may be required by the Regulatory Authority.

(7) Where there are several transfers of virtual assets from a single originator and the transfers are bundled in a batch file for transmission to beneficiaries, the originator may be exempted from complying with the requirements under subsection (5), on submission of originator information to the Regulatory Authority:

Provided that, the originator includes —

(*a*) the originator's account number or unique transaction reference number;

(*b*) the batch file contains required and accurate originator information; and

(*c*) accurate and sufficient beneficiary information, that is fully traceable within the beneficiary country.

(8) The virtual asset service provider of the originator or beneficiary shall obtain and keep a record of the information submitted to the Financial Intelligence Agency under subsection (3), in the case of a transfer of a virtual asset made to or received from a self-hosted wallet.

(9) In determining the value of a transfer, a virtual asset service provider shall take a reasonable and documented approach:

Provided that, where multiple transfers from the same originator appear to be linked, the virtual assets shall be aggregated for the purpose of calculating the transfer's value.

(10) A virtual asset service provider that controls both the ordering and beneficiary side of a transfer of virtual assets shall —

(*a*) take into account all the information from both the ordering and beneficiary sides in order to determine whether a suspicious transaction report has to be filed; and

(*b*) file a suspicious transaction report in any country affected by the suspicious transfer of virtual assets in line with the requirements and timelines provided for in the Financial Intelligence Act, and make relevant transaction information available to the Financial Intelligence Agency.

(11) A licence holder that fails to comply with the provisions of this section is liable to an administrative fine not exceeding P5 000 000.

Minimum capital requirements

27. (1) A virtual asset service provider shall maintain such minimum stated unimpaired capital and such other financial requirements, as may be prescribed.

(2) A virtual asset service provider shall keep the accounts of customers separate from any accounts kept in respect of any other aspect of the virtual asset service provider's business.

(3) A virtual asset service provider shall submit to the Regulatory Authority, an audited financial statement in respect of all transactions and balances relating to its business activities every year and not later than three months after the close of its

financial year.

(4) The financial statements specified in subsection (3), shall comply with such accounting standards, as may be approved by the Regulatory Authority.

(5) A virtual asset service provider shall keep a copy of the most recent audited financial statements together with a copy of the auditor's report for a period of not less than seven years, from the date of submitted of the financial statements to the Regulatory Authority.

Offer of virtual assets

28. (1) A licence holder who offers a virtual asset shall provide, in the offer —

(*a*) information that is accurate, up-to-date and not misleading;

(*b*) information that is consistent with the information contained in the white paper published in terms of section 29, or with the information required to be in the white paper;

(*c*) a statement clearly identifying the offer as an offer;

(*d*) a statement that a white paper has been or will be published in terms of section 29 and the addresses and times at which copies of the white paper are or will be available to the public; and

(*e*) information concerning the initial token offering or the admission to trading on a virtual asset exchange which shall be consistent with the information contained in the white paper.

(2) For purposes of subsection (1), "information" shall include the name of any person endorsing the licence holder's white paper.

Issuance of white paper

29. (1) A licence holder shall, in its white paper, provide full and accurate disclosure of information which would allow potential purchasers to make an informed decision.

(2) A licence holder shall publish its white paper by —

(*a*) posting a copy on a website operated and maintained by it, or by a third party for and on its behalf, which shall be readily accessible to, and downloadable by, potential purchasers for the duration of the offer period and for not less than 14 days after the offer period ends; or

(*b*) publishing it in a newspaper circulating in Botswana or the *Gazette*.

(3) The white paper required to be published pursuant to subsection (2), shall be signed by every member of the governing body of the licence holder.

(4) The Regulatory Authority may order a licence holder to amend its white paper to include supplementary information.

(5) A licence holder shall, after it has published a white paper and becomes aware of any information that could affect the interests of purchasers before the close of the offer period, within seven days give written notice to the Regulatory Authority and disclose that information by a supplement to the white paper.

(6) A licence holder who fails to comply with subsection (5) commits an offence and is liable to a fine not exceeding P300 000 and to imprisonment for a term not exceeding two years, or to both.

Classification of virtual assets

30. (1) A licence holder shall make an application to the Regulatory Authority, in such form and manners as may be prescribed and upon payment of a prescribed fee, to undertake a class or classes of virtual assets business.

(2) A licence holder shall include in its white paper, the class or classes of virtual assets that are available for subscription in its virtual assets business.

(3) The Minister may, prescribe the classes of virtual assets that are available to be issued in Botswana.

(4) A licence holder shall make an application to the Regulatory Authority in such form and manner, as may be prescribed and upon payment of a prescribed fee, to change the class or classes of virtual assets to be offered by the licence holder.

(5) Where, pursuant to subsection (4), the Regulatory Authority approves a change of class or classes of virtual assets, the licence holder shall amend and publish its white paper in accordance with section 29.

Misleading advertisement, statements, etc.

31. (1) A licence holder shall not, in relation to any activity that involves the business of the exchange, transfer, safekeeping, administration, or participation in, or provision of, virtual assets —

(*a*) issue or cause to be issued, an advertisement, brochure or similar document or cause to be made, a statement, promise or forecast, which the licence holder knows, in a material particular —

(i) is false or misleading, or

(ii) contains an incorrect statement of fact;

(*b*) issue or cause to be issued, an advertisement, brochure or similar document, or cause to be made, a statement, promise or forecast, where the licence holder is reckless as to whether the advertisement, brochure, document, statement, promise or forecast, in a material particular —

(i) is false or misleading, or

(ii) contains an incorrect statement of fact; or

(*c*) dishonestly conceal a material fact, whether in connection with an advertisement, brochure or similar document, statement, promise or forecast, or otherwise.

(2) Where the Regulatory Authority is of the opinion that an advertisement, brochure or other similar document issued, or to be issued, or a statement, promise or forecast made, or to be made, by or on behalf of a licence holder contravenes the provisions of subsection (1) or is contrary to the public interest, the Regulatory Authority may —

(*a*) direct the licence holder, upon giving notice to the licence holder, in writing, to withdraw the advertisement, brochure or other similar document or the statement, promise or forecast; or

(*b*) direct the licence holder to issue the advertisement document, or make the statement, promise or forecast, with such changes as the Regulatory Authority may specify.

(3) Subsection (2) does not limit the powers of the Regulatory Authority to take an administrative sanction in accordance with section 38.

PART V — *Professional Conduct and Compliance of Licence Holders*

32. A licence holder shall, in carrying out its business activities — Professional conduct of licence holder

(*a*) act honestly and fairly;

(*b*) act with due skill, care and diligence;

(*c*) observe and maintain a high standard of professional conduct;

(*d*) ensure that appropriate measures are put into place for the protection of customers' virtual assets; and

(*e*) have effective corporate governance arrangements consistent with this Act.

33. A licence holder shall implement and maintain measures for preserving the confidentiality of information of customers. Confidentiality of customer information

34. (1) A licence holder may make an application to the Regulatory Authority, in such form and manner, as may be prescribed, to — Material change to business activities

(*a*) modify the scope of the virtual asset business activities;

(*b*) re-organise its legal structure;

(*c*) merge with another entity; or

(*d*) change its name.

(2) A licence holder shall not, without the approval of the Regulatory Authority —

(*a*) expand the scope of its activities;

(*b*) issue new tokens;

(*c*) merge with another entity;

(*d*) appoint a new director or partner;

(*e*) add or reduce its shareholders; or

(*f*) change or modify its name.

35. The Regulatory Authority may, enter into an agreement for the exchange of information with a law enforcement agency, an investigatory body, a supervisory body, a regulatory body or a comparable international entity, if the Regulatory Authority is satisfied that the law enforcement agency, investigatory body, supervisory body, regulatory body or comparable international entity, have the capacity to protect the confidentiality of any information disclosed to it. Exchange of information

PART VI — *General Provisions*

36. (1) A person who carries out a virtual asset business in contravention of this Act commits an offence and is liable, where no specific penalty is provided, to a fine not exceeding P1 000 000, or imprisonment for a term not exceeding 10 years, or to both. General offences and penalties

(2) A person who —

(*a*) wilfully makes any misrepresentation in any document required to be submitted under this Act;

(*b*) wilfully makes any statement or gives any information required for the purpose of this Act which the person knows to be materially false or misleading; or (*c*) knowingly fails to disclose any fact or information required to be disclosed for the purposes of this Act, commits an offence and is liable to a fine not exceeding P100 000, or to imprisonment for a term not exceeding two years, or to both.

(3) A person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any document, information stored on a computer or other device or other thing that the person knows or ought reasonably to know is relevant to the Regulatory Authority, commits an offence and is liable to a fine not exceeding P1000 000 or to imprisonment for a term not exceeding eight years, or to both.

(4) Where an offence has been committed under this Act and it is proved that the offence occurred with the consent, knowledge, connivance or gross negligence of a director or senior management official of the licence holder, or any person purporting to act in any such capacity, each such person commits the offence and is liable to the same penalty as provided for under the relevant section in this Act.

Onus of proof

37. If in any charge under this Act it is alleged that an offence is committed —

(*a*) evidence that an offence under this Act has been committed shall be sufficient proof that such an offence was committed with the knowledge of the person charged; and

(*b*) the burden of proving any fact which would be a defence to a charge for contravening any provision of this Act shall lie upon the person charged or accused person.

Administrative sanctions

38. (1) Notwithstanding any other action which may be taken by the Regulatory Authority for contravention of this Act, the Regulatory Authority may, in addition to such action, impose an administrative penalty for the contravention, including —

(*a*) issuing an order of restitution;

(*b*) an order for disgorgement of profits or unjust enrichment;

(*c*) an application to the Tribunal established under Non-Bank Financial Institutions Regulatory Authority Act, for an order to take such action as may be necessary to protect customers;

(*d*) payment of an administrative penalty as may be prescribed; or

(*e*) an order imposing any other penalty or sanction as the circumstances of the case may require.

(2) An order made under subsection (1) shall have the same force and effect as an order of the High Court and be enforceable in like manner.

Appeals against decisions of Regulatory Authority

39. A person who is aggrieved by the decision of the Regulatory Authority made in accordance with the provisions of this Act, may appeal such decision to the Tribunal established under the Non-Bank Financial Institutions Regulatory Authority Act.

Repeal of Act No. 3 of 2022

40. The Virtual Assets Act is hereby repealed.

Transitional and savings provisions

41. (1) Notwithstanding the repealed Act, a person licensed as a virtual asset service provider, virtual asset custody service provider, virtual assets exchange or as an issuer of virtual token offerings, immediately before the commencement of this Act, shall be deemed to have been so licensed under this Act.

(2) Any decision or action lawfully taken by the Regulatory Authority prior to the commencement of this Act, in so far as they relate to the powers and functions transferred of the Regulatory Authority under the repealed Act and are not inconsistent with the provisions of this Act, are deemed to be decisions made and actions taken under this Act.

(3) Any subsidiary legislation made under the repealed Act and in force immediately prior to the coming into operation of this Act shall, in so far as such legislation is consistent with the provisions of this Act, continue to be in force as if made under this Act.

Rules

42. (1) The Regulatory Authority may make rules relating to —

(*a*) any matter required or permitted to be determined by rules in terms of this Act;

(*b*) matters to be included in the prospectus to be published by the licence holder that is a token issuer;

(*c*) other information or documentation to be submitted in support of an application under this Act;

(*d*) information to be held and submitted or to be held or submitted in respect of transfer of shares or interests, or the transfer of virtual assets;

(*e*) the acquisition or holding of shares, legal interest or beneficial ownership in the licence holder;

(*f*) the amendment, cancellation or suspension of a licence;

(*g*) standards to be maintained by the licence holder in the conduct of its business;

(*h*) the standards, policies and procedures for business management and continuity management;

(*i*) requirements relation to the audit of books of licence holders and other persons;

(*j*) service of documents for purposes of this Act;

(*k*) form and manner and period of paying financial penalties; and

(*l*) prudential standards in respect of —

(i) disclosure to clients,

(ii) risk management, and

(iii) safekeeping of client virtual assets.

(2) A rule made under subsection (1) may be of a general or specific application.

Regulations

43. (1) The Minister may make regulations providing for any matter under this Act which is to be prescribed or which is necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Act, or to give force and effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide for any of the following matters —

(*a*) the setting up of advisory bodies under section 4;

(*b*) the form and manner of the information to be submitted to the Regulatory Authority under section 5;

(*c*) the form and manner for applying for a licence in terms of section 10;

(*d*) the form and manner for the issue of a licence under section 11;

(*e*) the form and manner for a request to cease a virtual asset business under section 14;

(*f*) the form and manner for the application for a transfer or assignment of a licence or beneficial ownership under section 19;

(*g*) the form and manner a register under section 21 shall be established and maintained;

(*h*) the financial requirements to be met by a licence holder that has custody of virtual assets on behalf of a customer under section 23;

(*i*) the form and manner for the application for the acquisition of a beneficial interest in a licence holder under section 25;

(*j*) the amount permitted for wire transfers into or outside Botswana in terms of section 26;

(*k*) the form and manner of undertaking wire transfers; under section 26;

(*l*) the minimum capital requirements that are to be maintained by a virtual asset provider under section 27;

(*m*) the form and manner of a white paper issued under section 29;

(*n*) the form and manner of application to undertake a class or classes of virtual assets by a licence holder under section 30;

(*o*) the classification of virtual assets under section 30;

(*p*) the form and manner of an application to materially change the business activities of virtual asset service provider;

(*q*) the payment of fees in respect of any matter in this Act; or

(*r*) any matter required to be provided for in relation to the Regulatory Authority.

PASSED by the National Assembly this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO
G. MALEBANG,
Clerk of the National Assembly.

SOCIETIES (AMENDMENT) ACT, 2025

No. 5 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of Cap. 18:01
3. Amendment of section 3 of the Act
4. Amendment of section 4 of the Act
5. Insertion of section 4B in the Act
6. Amendment of section 6 of the Act
7. Amendment of section 7 of the Act
8. Amendment of section 9 of the Act
9. Amendment of section 10 of the Act
10. Amendment of section 13 of the Act
11. Amendment of section 17 of the Act
12. Amendment of section 20 of the Act
13. Amendment of section 29 of the Act
14. Insertion of section 29B in the Act
15. Insertion of section 29C in the Act
16. Insertion of section 29D in the Act

An Act to amend the Societies Act.

Date of Assent: 24.01.2025
Date of Commencement: 24.01.2025
ENACTED by the Parliament of Botswana.

Short title and commencement

1. This Act may be cited as the Societies (Amendment) Act, 2025, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Amendment of section 2 of Cap. 18:01

2. The Societies Act (hereinafter referred to as "the Act") is amended in section 2 by inserting in their correct alphabetical order, the following new definitions —

"day" means any day other than a Saturday, Sunday or any day which is a public holiday under the Public Holidays Act;

"competent authority" has the same meaning assigned to it under the Financial Intelligence Act; Cap. 08:07

"formation" means first meeting of the proposed society for the drafting of the constitution after name reservation;

"premises" means a place of operation and or an administrative office of the society;

"proposed society" means any club, company, partnership, political party or association of 20 or more persons, whatever its nature or objects, or any association of 20 or more persons, for a religious society who have submitted their intentions to register a society;

Cap. 08:08

"terrorism" has the same meaning assigned to it under the Counter-Terrorism Act:

"terrorism financing" has the same meaning assigned to it under the Counter-Terrorism Act;

"society" means —

(*a*) any club, company, partnership or association of 20 or more persons, whatever its nature or objects, or any association of 20 or more persons, for a religious society, but does not include —

Cap. 42:01

(i) any company as defined by the Companies Act, or any company to which Part VII of that Act applies which has complied with the requirements of section 285 of that Act;

(ii) any company or association constituted under any written law for the time being in force in Botswana;

Cap. 48:01

(iii) any trade union, federation of trade unions or employers' organisation registered under the Trade Unions and Employers' Organisations Act,

(iv) any company, association or partnership consisting of not more than 20 persons, formed for the sole purpose of carrying on any lawful business,

Cap. 42:04

(v) any co-operative society, registered under the Co-operative Societies Act,

Cap. 58:01

(vi) any board of governors, local education authority, school committee or similar organization established under Education Act,

Cap. 42:03

(vii) any building society registered under the Building Societies Act; or

(viii) any society or class of society which may be declared not to be a society for the purposes of this Act; or

(*b*) a political party of 20 or more persons listed in the Schedule.

(2) Where a body of persons, whether corporate or unincorporated is a member of an association, all members of such body shall be deemed to be members of such association.".

Amendment of section 3 of the Act

3. The Act is amended in section 3 by inserting immediately after subsection (2) the following new subsection —

"(3) The Minister shall appoint an officer to be a point of contact to respond to an international request for information.".

Amendment of section 4 of the Act

4. The Act is amended by substituting for section 4, the following new section —

"Establishment of Society

4. (1) A society shall be considered to be established in Botswana if —

(*a*) it has its headquarters or premises in Botswana; and

(*b*) two thirds of the office bearers reside in Botswana and hold critical roles relating to the day to day running of the society.

(2) When establishing a society, in accordance with the provisions of subsection (1), the Registrar shall verify the identity of a person who controls or directs the activities of the society, including a senior office bearer and board member.

(3) The Minister may prescribe any further requirements with regard to the establishment of a society.

(4) For purposes of this section, "critical roles" means any office bearer or an officer who is responsible for keeping records, accounts of a registered society or for the collection, receipt, disbursement, custody or control of the finances of the society.".

Insertion of section 4B in the Act

5. The Act is amended by inserting immediately after 4A, the following new section —

"Reservation of name

4B. A proposed society shall, prior to making an application for registration under this Act, make an application in such form as may be prescribed to the Registrar for the reservation of a name under which the proposed society may be registered."

Amendment of section 6

6. The Act is amended in section 6 by —

(*a*) inserting the word "proposed" before the word "society" whenever it appears in the section.

(*b*) inserting immediately after paragraph (*n*) in subsection (1) the following paragraph —

"(*o*) there is a reasonable suspicion that the proposed society's office bearers have committed a terrorism financing offence or linkages to terrorist organisations or individuals declared as terrorist."

(*c*) deleting paragraphs (*c*), (*e*) and (*g*) thereof in subsection (1)

Amendment of section 7

7. The Act is amended in section 7 by inserting immediately after paragraph (*b*) the following new paragraph —

"(*c*) been convicted of offences relating to terrorism financing and proliferation.".

Amendment of section 9

8. The Act is amended in section 9 (1) by —

(*a*) deleting paragraph (*f*) thereof.

(*b*) inserting immediately after paragraph (*e*) the following paragraphs —

"(*f*) has not adopted its constitution;

(*g*) is unable to keep proper records of meetings and list of its members;

(*h*) has reduced in membership by 75%;

(*i*) contravenes any other written law; and

(*c*) by deleting subsections (4) and (5) thereof.

Amendment of section 10 of the Act

9. The Act in amended in section 10, by inserting immediately after subsection (1), the following new subsection —

"(1A) Where a society wishes to effect change as per subsection (1), it shall submit a memorandum or articles for amendment of the constitution to the Registrar in such a form as may be prescribed.".

Amendment of section 13 of the Act

10. The Act is amended in section 13 (1) by inserting immediately after paragraph (*d*), the following new paragraph —

"(*e*) a list of donors and the value of donations received within the period of six months immediately preceding the order.".

Amendment of section 17 of the Act

11. Section 17 (3) of the Act is amended, by substituting the words "charitable organisation" for the words "society in Botswana.".

Amendment of section 20 of the Act

12. Section 20 of the Act is amended by substituting for subsection (1), the following new chapeau in subsection (1) —

"(1) An authorised officer may at any time enter the society's premises to – .".

Amendment of section 29 of the Act

13. Section 29 of the Act is amended by substituting for subsection (1), the following new subsection —

"Accounts and audits

29. (1) A society shall —

(*a*) keep and maintain proper accounts and records of accounts in respect of every financial year relating to the assets, liabilities, income and expenditure;

(*b*) cause to be prepared in respect of each financial year and not later than three months after the end of financial year, a statement of such accounts; and

(*c*) provide any other information in respect of the financial affairs of a society as the Registrar may require.".

Insertion of section 29B in the Act

14. The Act is amended by inserting, immediately after section 29A, the following section —

"Annual return

29B. (1) Every registered society shall furnish to the Registrar an annual return in the prescribed form, not later than the expiry date of registration of that society.

(2) A registered society that operates with an expired certificate commits an offence.

(3) It shall be the duty of every office-bearer to ensure that such annual return is duly furnished to the Registrar.

(4) A registered society which contravenes this section commits an offence and liable to the penalties provided under section 29C.".

Insertion of section 29C in the Act

15. The Act is amended by inserting, immediately after section 29B, the following section —

"Penalties

29C. Where a society commits an offence under this Act for which no penalty is expressly provided, the society shall be liable to a fine not exceeding P50 000, and in addition every office-bearer thereof shall be guilty of the same offence and be liable to a similar fine or to imprisonment for a term not exceeding seven years or to both:

Provided that an officer – bearer shall not be convicted of the offence if he or she establishes to the satisfaction of the court that he or she exercised due diligence to prevent its commission and that the offence occurred by reason of matters beyond his or her control.".

Insertion of section 29D in the Act

16. The Act is amended by inserting, immediately after section 29C, the following section —

"Accessing information

29D. A competent authority shall have full access to information on the administration and management of a registered society, including financial and programmatic information that may be obtained in the course of investigation.".

PASSED by the National Assembly this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO G. MALEBANG,
Clerk of the National Assembly.

PUBLIC SERVICE (AMENDMENT) ACT, 2025

No. 6 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of the Act
3. Substitution of Part XIII in the Act

An Act to amend the Public Service Act.

Date of Assent: 24.01.2025
Date of Commencement: ON NOTICE
ENACTED by the Parliament of Botswana.

Short title and commencement

1. This Act may be cited as the Public Service (Amendment) Act, 2025, and shall come into operation on such a date as the Minister may, by Order published in the *Gazette*, appoint.

Amendment of section 2 of the Act

2. Section 2 of the Act is amended by inserting, in their correct alphabetical order, the following new definitions —

““Bargaining Council” means the Public Service Bargaining Council established under section 50;

“collective bargaining” includes negotiations which take place between the employer and trade unions to —

(*a*) determine the working conditions and terms of employment;
(*b*) regulate the relations between the employer and employees; and
(*c*) regulate the relations between the employer and trade union;

“collective agreement” means an agreement relating to the terms and conditions of employment concluded between a trade union or a group of trade unions and the employer;

“Registrar” means the Registrar of Trade Unions and Employers’ Organizations appointed as such in terms of the Trade Unions and Employers’ Organizations Act; Cap. 48:01

“sector” means the whole or part of a trade or an occupation or service;

"sectoral bargaining council" means a bargaining council designated by the Bargaining Council in terms of section 54."

Substitution of Part XIII in the Act

3. The Act is amended by substituting for Part XIII, the following new Part —

"Part XIII – *Collective Bargaining in the Public Service*

Establishment of Bargaining Council

50. (1) A bargaining council for the public service, to be known as the Public Service Bargaining Council (hereinafter referred to as "the Bargaining Council"), shall be established and registered in terms of this Part.

(2) The Public Service Bargaining Council shall consist of the following members —

(*a*) Government, as the employer; and

(*b*) trade unions that meet the threshold for admission in terms of the constitution of the Bargaining Council.

(3) The threshold for admission of a trade union to the Bargaining Council shall be determined in accordance with the following criteria —

(*a*) the nature of the workplace;

(*b*) the nature of the rights that the trade union seeks to exercise;

(*c*) the arrangements in place for collective bargaining;

(*d*) the organisational history at the workplace;

(*e*) the composition of the employees at the workplace; and

(*f*) whether recognition would promote orderly collective bargaining.

(4) For the purpose of this section, a trade union includes two or more trade unions acting jointly.

Functions of Bargaining Council

51. The functions of the Bargaining Council shall be to —

(*a*) negotiate, conclude and enforce collective agreements between the employer and recognised public service trade unions;

(*b*) facilitate cooperation between the employer and public officers, regarding matters affecting the public service, in order to increase efficiency of the service and the wellbeing of public officers;

(*c*) facilitate better relations between Government as employer, and trade unions, based on mutual trust and respect;

(*d*) determine, by collective agreement, the matters which may not be an issue in dispute for the purposes of a strike or lock-out at the workplace; and

(*e*) exercise any other power or duty that may be necessary or desirable to achieve the objectives of the Bargaining Council.

Constitution of Bargaining Council

52. (1) As soon as practicable after the commencement of this Act, the Government in its capacity as the employer and a simple majority of recognised trade unions whose members are public officers, to whom this Act applies, shall agree on a constitution for the Council.

(2) The constitution of the Bargaining Council shall provide, amongst other things, for the following matters —

(*a*) the category or categories of employees that may be covered by the Bargaining Council;

(*b*) the number of employer and employee representatives and alternate representatives of both the employer and employees;

(*c*) the appointment and method of selection of a Chairperson and Deputy Chairperson of the Bargaining Council;

(*d*) the appointment and method of selection of the Secretary of the Bargaining Council;

(*e*) the procedure for the convening and conducting of meetings of the Bargaining Council, including the number of seats required to form a quorum and the recording of the minutes of the proceedings of the meetings of the Bargaining Council;

(*f*) the procedure for the replacement of representatives;

(*g*) the term of office of the Bargaining Council office holders;

(*h*) the procedure to be followed in the event of a dispute or deadlock in the Bargaining Council;

(*i*) the methods by which persons affected by any collective agreement made or amended by the Bargaining Council shall be informed;

(*j*) the thresholds for the admission of trade union parties of the Bargaining Council;

(*k*) the establishment and functions of committees of the Bargaining Council;

(*l*) the manner in which decisions of the Bargaining Council are to be reached;

(*m*) the procedure for the exemptions from any provisions of a collective agreement;

(*n*) the procedure by which the Bargaining Council may resolve to wind up its operations; and

(*o*) such other matters as may be included and approved by the Registrar.

(3) The parties shall submit a copy of the proposed constitution, together with any other information that may assist the Registrar to determine whether the constitution meets the requirements for registration.

(4) The Registrar shall, upon being satisfied that the proposed constitution complies with the provisions of the Trade Unions and Employers' Organizations Act, register the constitution.

Amendment of constitution

53. (1) Any proposed changes to the constitution of the Bargaining Council as adopted by the parties, shall be submitted to the Registrar, for approval.

(2) The Registrar shall, upon being satisfied that the proposed changes to the constitution comply with the provisions of the Trade Unions and Employers' Organizations Act, approve the proposed changes to the constitution.

Bargaining councils in public service

54. (1) The Bargaining Council may, by resolution passed in terms of its constitution —

(*a*) designate any sector of the Public Service for the establishment of a sectoral bargaining council;

(*b*) designate the powers and functions of such sectoral bargaining councils; and

(*c*) vary the designation of, or establish, amalgamate or dissolve any sectoral bargaining council so established.

(2) The resolution referred to in subsection (1), shall accompany the application —

(*a*) to register a sectoral bargaining council;

(*b*) to vary the designation of a sectoral bargaining council; or

(*c*) to register the amalgamation of a sectoral bargaining council.

(3) Subject to subsection (1), a trade union recognised in terms of the Act shall be a member of a sectoral bargaining council.

Jurisdiction of sectoral bargaining councils

55. (1) A sectoral bargaining council shall have jurisdiction in respect of matters that are specific to the sector and in respect of which Government, as employer, in that sector, may conclude collective agreements on —

(*a*) the terms and conditions of employment that apply to the sector;

(*b*) the regulation of relations between the employer and employees; and

(*c*) the hours of work and rest periods for a specific sector.

(2) The decision of a sectoral bargaining council shall not bind the Bargaining Council, but the decisions of the Bargaining Council, in respect of general matters affecting the public service shall bind the sectoral bargaining council.

(3) Notwithstanding the provisions of subsection (2), the sectoral bargaining councils may make recommendations to the Bargaining Council, which shall then make such decision, as it considers appropriate within the scope of its constitution.

Rights of trade unions in Bargaining Council

56. Every recognised trade union that meets the threshold for admission, in terms of this Act is entitled to be a party in the Bargaining Council.

Disclosure of information

57. (1) Subject to the provisions of subsections (2) to (5), the employer shall, on request, disclose all relevant information to a trade union that is a member of the Bargaining Council, that is reasonably required to allow the trade union to consult or bargain collectively.

(2) The employer shall notify the trade union, in writing, if any of the information requested by the union is information which may not be disclosed in terms of subsection (3).

(3) The employer shall not disclose information —

(*a*) that is legally privileged;

(*b*) that the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of court;

(*c*) that is confidential and which, if disclosed, may cause material harm to an employee or the employer; or

(*d*) that is private personal information relating to an employee, unless that employee consents to the disclosure of that information.

(4) Unless there is a collective agreement providing otherwise, any dispute concerning the provisions of this section, shall be referred for mediation or arbitration in terms of the Trade Disputes Act.

Cap. 48:02

(5) If the dispute is not settled within 30 days of the referral, any party may refer the dispute to the Industrial Court for determination.".

PASSED by the National Assembly this 19th day of December, 2024.

DR. GABRIEL GOITSEMODIMO
G. MALEBANG,
Clerk of the National Assembly.

Statutory Instrument No. 6 of 2025

FINANCIAL INTELLIGENCE (AMENDMENT) ACT
(Act No. 1 of 2025)

FINANCIAL INTELLIGENCE (AMENDMENT) ACT (DATE OF COMMENCEMENT) ORDER, 2025
(*Published on 24th January, 2025*)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH
1. Citation
2. Commencement of Act No. 1 of 2025

IN EXERCISE of the powers conferred on the Minister of Finance by Section 1 of the Financial Intelligence (Amendment) Act, the following Order is hereby made —

Citation

1. This Order may be cited as the Financial Intelligence (Amendment) Act (Date of Commencement) Order, 2025.

Commencement of Act No. 1 of 2025

2. The Financial Intelligence (Amendment) Act shall come into operation on the 24th January, 2025.

MADE this 24th day of January, 2025.

NDABA NKOSINATHI GAOLATHE,
Minister for Finance.

Statutory Instrument No. 7 of 2025

TRUST PROPERTY (AMENDMENT) ACT
(Act No. 2 of 2025)

TRUST PROPERTY (AMENDMENT) ACT
(DATE OF COMMENCEMENT) ORDER, 2025
(*Published on 24th January, 2025*)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH
1. Citation
2. Commencement of Act No. 2 of 2025

IN EXERCISE of the powers conferred on the Minister of Justice and Correctional Services by Section 1 of the Trust Property (Amendment) Act, the following Order is hereby made —

Citation

1. This Order may be cited as the Trust Property (Amendment) Act (Date of Commencement) Order, 2025.

Commencement of Act No. 2 of 2025

2. The Trust Property (Amendment) Act shall come into operation on the 24th January, 2025.

MADE this 24th day of January, 2025.

RAMAOTWANA NELSON
RAMAOTWANA,
Minister for Justice and Correctional Services.

Statutory Instrument No. 8 of 2025

COMPANIES (AMENDMENT) ACT
(Act No. 3 of 2025)

COMPANIES (AMENDMENT) ACT
(DATE OF COMMENCEMENT) ORDER, 2025
(*Published on 24th January, 2025*)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH
1. Citation
2. Commencement of Act No. 3 of 2025

IN EXERCISE of the powers conferred on the Minister of Trade and Entrepreneurship by Section 1 of the Companies (Amendment) Act, the following Order is hereby made —

1. This Order may be cited as the Companies (Amendment) Act (Date of Commencement) Order, 2025. Citation

2. Sections 1, 2, 3,5 ,6, 7,8,10,11, 12, 13, 15, 16, 17, 18, 19 and 20 of the Companies (Amendment) Act shall come into operation on the 24th January, 2025. Commencement of Act No. 3 of 2025

MADE this 24th day of January, 2025.

BARATIWA MATHOOTHE,
Acting Minister for Trade and Entrepreneurship.

Statutory Instrument No. 9 of 2025

VIRTUAL ASSETS ACT
(Act No. 4 of 2025)

VIRTUAL ASSETS ACT
(DATE OF COMMENCEMENT) ORDER, 2025
(*Published on 24th January, 2025*)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH
1. Citation
2. Commencement of Act No. 4 of 2025

IN EXERCISE of the powers conferred on the Minister of Finance by Section 1 of the Virtual Assets Act, the following Order is hereby made —

Citation

1. This Order may be cited as the Virtual Assets Act (Date of Commencement) Order, 2025.

Commencement of Act No. 4 of 2025

2. The Virtual Assets Act shall come into operation on the 24th January, 2025.

MADE this day 24th of January, 2025.

NDABA NKOSINATHI GAOLATHE,
Minister for Finance.

Statutory Instrument No. 10 of 2025

SOCIETIES (AMENDMENT) ACT
(Act No. 5 of 2025)

SOCIETIES (AMENDMENT) ACT
(DATE OF COMMENCEMENT) ORDER, 2025
(*Published on 24th January, 2025*)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH
1. Citation
2. Commencement of Act No. 5 of 2025

IN EXERCISE of the powers conferred on the Minister of Labour and Home Affairs by Section 1 of the Societies (Amendment) Act, the following Order is hereby made —

1. This Order may be cited as the Societies (Amendment) Act (Date of Commencement) Order, 2025. Citation

2. The Societies (Amendment) Act shall come into operation on the 24th January, 2025. Commencement of Act No. 5 of 2025

MADE this 24th day of January, 2025.

MAJOR GENERAL (RTD) PIUS MOKGWARE,
Minister for Labour and Home Affairs.

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