

COMPANIES ACT
(Cap. 42:01)

COMPANIES ACT (AMENDMENT OF SCHEDULES) ORDER, 2006
(Published on 3rd November, 2006)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Substitution of Second Schedule to Cap. 42:01
3. Substitution of Fourth Schedule to the Act
4. Substitution of Fifth Schedule to the Act

IN EXERCISE of the powers conferred on the Minister of Trade and Industry by section 320 (c) of the Companies Act, the following Order is hereby made —

1. This Order may be cited as the Companies Act (Amendment of Schedules) Order, 2006. Citation

2. The Second Schedule to the Companies Act, (hereinafter referred to as “the Act”) is amended by substituting, for Part 1, the following new Part 1. Substitution of Second Schedule to Cap. 42:01

“SECOND SCHEDULE

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A PRIVATE COMPANY ON CEASING TO BE A PRIVATE COMPANY AND REPORTS TO BE SET OUT THEREIN

(Sections 33, 314 and 320)

PART I

Form of Statement and Particulars to be Contained therein

THE COMPANIES ACT (Chapter 42:01)

Statement in lieu of Prospectus delivered for registration by

.....
(Insert the name of the Company)

Pursuant to section 33 of the Companies Act (Chapter 42:01)

Delivered for registration by.....

1. Names, description and addresses of directors or proposed directors.

2. (a) the nominal share capital of the company;
Divided into.....

P
Shares of P.....each
Shares of P.....each
Shares of P.....each
Shares of P.....each

(b) amount, if any, of above capital which consists of redeemable preference shares;

(c) the earliest date on which the company has power to redeem these shares.

3. (a) Amount of shares issued
Divided into.....

Shares of P.....each
Shares of P.....each
Shares of P.....each
Shares of P.....each

(b) amount of commissions paid in connection therewith.

4. Unless more than one year has elapsed since the date on which the company was entitled to commence business —

(a) amount of preliminary expenses by whom those expenses have been paid or are payable;

P.....

(b) amount paid to any promoter

Name of promoter
Amount: P.....

(c) consideration for the payment;

Consideration:

(d) any other benefit given to any promoter;

Name of promoter
Nature and value of benefit:

(e) consideration for giving of benefit.

Consideration:

5. If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividend attached to, the several classes of shares respectively.

6. Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid-up otherwise than for cash or agreed to be so issued at the date of this statement. Consideration for issue of those shares or debentures.

1.shares of P.....fully paid
2.shares upon which: P.....
per share is credited as paid.
3.debentures: P.....
4. Consideration

7. The substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind has been or is proposed to be given to any person to subscribe for any shares in or debentures of a company or to acquire them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale; giving the number, description and amount of any such shares or debentures and including the following particulars of the option or right —

- (a) the period during which it is exercisable
- (b) the price to be paid for shares or debentures subscribed for under it;
- (c) the consideration, if any, given or to be given for or for the right to it;
- (d) the names and addresses of the persons to whom it or the right to it was given or if given to existing members or debenture holders as such, the relevant shares or debentures;
- (e) any other material fact or circumstance relevant to the grant of such option or right.

8. (a) Names and addresses of vendors of property (1) purchased or acquired by the company within the two years preceding the date of this statement, or (2) agreed or proposed to be purchased or acquired by the company, except where the contract for its purchase or acquisition was entered into in the ordinary course of business and there is no connection between the contract and the company ceasing to be a private company or where the amount of the purchase money is not material;

- (b) amount (in cash, shares or debentures) paid or payable to each separate vendor;
- (c) amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill;

- 1.
- 2.shares of P.....and
.....debentures of P.....

- 3. Until.....
- 4. P.....
- 5. Consideration:
- 6. Names and addresses:
- 7.

Cash.....	P.....
Shares.....	P.....
debentures.....	P.....
Goodwill.....	P.....

Total purchase price. _____
P _____

- | | | |
|------------|---|---|
| <i>(b)</i> | rate of commission; | Rate per cent. |
| <i>(c)</i> | the number of shares, if any, which persons have agreed for a commission to subscribe absolutely. | |
| 8. | <i>(a)</i> Estimated amount of preliminary expenses; | P..... |
| | <i>(b)</i> by whom those expenses have been paid or are payable; | Name of promoter |
| | <i>(c)</i> amount paid or intended to be paid to any promoter; | Amount P..... |
| | <i>(d)</i> consideration for the payment; | Consideration: |
| | <i>(e)</i> any other benefit given or intended to be given to any promoter; | Name of Promoter:
Nature and value of benefit: |
| | <i>(f)</i> consideration for giving of benefit. | Consideration: |
| 9. | <i>(a)</i> Dates of, parties to and general nature of every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the delivery of this statement); | |
| | <i>(b)</i> time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced to writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a foreign language, a copy of a translation thereof in English or embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner. | |
| 10. | Names and addresses of the auditors of the company, if any. | |
| 11. | Full particulars of the nature and extent of the interest, if any, of every director or promoter in the promotion of, or in the property acquired within two years of the date of the prospectus or proposed to be acquired by, the company, or where the interest of such director or promoter consists in being a member of a partnership, | |

12. (a) Rates of the dividends, if any, paid by the company in respect of each class of shares in the company in each of the five financial years immediately preceding the date of this statement or since the incorporation of the company, whichever period is the shorter;

(b) particulars of the cases in which no dividends have been paid in respect of any class of shares in any of those years.

(Signatures of the persons above-named as directors or proposed directors or of their agents authorized in writing.)

Date.....

Note. Companies approved to operate under the Botswana Financial Services Centre may denominate their share capital in major convertible currencies, namely, the United States Dollars-USD, the British Pound Sterling -GBP and the Euro-EUR.”.

Substitution of Fourth Schedule to the Act

3. The Fourth Schedule to the Act is amended by substituting, for Part 1, the following new Part 1.

“FOURTH SCHEDULE

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED, AND REPORT TO BE SET OUT THEREIN

(Sections 53, 314 and 320)

PART I

Form of Statement and Particulars to be Contained therein

THE COMPANIES ACT (Chapter 42:01)

Statement in lieu of Prospectus delivered for registration by

.....
(Insert the name of the Company)

Pursuant to section 53 of the Companies Act (Chapter 42:01)

Delivered for registration by

1. Names, description and addresses of directors or proposed directors.

2. (a) the nominal share capital of the company divided into.....
 - P.....each
 - Shares of P.....each
 - Shares of P.....each

- (b) amount, if any, of above capital which consists of redeemable preference shares;
 - Shares of P.....each

- (c) the earliest date on which the company has power to redeem these shares.

3. If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

4. (a) Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash;
 1.shares of P.....fully paid
 2.shares upon which P.... per share is credited as paid.

- (b) the consideration for the intended issue of those shares and debentures.
 3.debentures P.....
 4. Consideration:

5. The substance of any contract or arrangement or proposed contract or arrangement, whereby any option or preferential right of any kind has been or is proposed to be given to any person to subscribe for any shares in or debentures of a company or to acquire them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale; giving the number, description and amount of any such shares or debentures and including the following particulars of the option or right -
 1.
 2.shares of P.....and
.....debentures of P.....

- (a) the period during which it is exercisable;
 3. Until.....

- (b) the price to be paid for shares or debentures subscribed for under option;
 4. P.....

- (c) the consideration, if any, given or to be given for it or for the right to it;
 5. Consideration:

- (d) the names and addresses of the person to whom it or the right to it was given or if given to existing members or debenture
 6. Names and Addresses:

holders as such, the relevant shares or debentures;

(e) any other material fact or circumstances relevant to the grant of such option or right. 7.

6. (a) Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company except where the contract for its purchase or acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material;

(b) amount (in cash, shares or debentures) payable to each separate vendor;

(c) the amount payable by way of premium, if any, on each share which has been or is to be issued stating the reasons for any such premium, and where some shares have been or are to be issued at a premium and other shares at a lesser or no premium, also the reasons for the differentiation, and how any premium is to be or has been disposed of;

(d) amount, if any, paid or payable (in cash or shares or debentures) for any such property, specifying amount, if any, paid or payable for goodwill;

Cash..... P.....
Shares..... P.....
Debentures..... P.....
Goodwill..... P.....

Total purchase price P.....

(e) short particulars of any transaction relating to any such property which was completed within the two preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect with particulars of such interest.

7. (a) Amount, if any, paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company;

Amount paid: P.....
Amount payable: P.....

- | | | |
|-----|--|--|
| (b) | rate of commission; | Rate per cent. |
| (c) | the number of shares, if any, which persons have agreed for a commission to subscribe absolutely. | |
| 8. | (a) | Estimated amount of preliminary expenses; P..... |
| | (b) | by whom those expenses have been paid or are payable; Name of promoter |
| | (c) | amount paid or intended to be paid to any promoter; Amount P..... |
| | (d) | consideration for the payment; Consideration: |
| | (e) | any other benefit given or intended to be given to any promoter; Name of Promoter:
Nature and value of benefit: |
| | (f) | consideration for giving of benefit. Consideration: |
| 9. | (a) | Dates of, parties to and general nature of every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the delivery of this statement); |
| | (b) | time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced to writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a foreign language, a copy of a translation thereof in English or embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner. |
| 10. | Names and addresses of the auditors of the company, if any. | |
| 11. | Full particulars of the nature and extent of the interest, if any, of every director or promoter in the promotion of, or in the property acquired within two years of the date of the prospectus or proposed to be acquired by, the company, or where the interest of such director or promoter consists in being a member of a partnership, | |

company, syndicate or other association of persons, the nature and extent of the interest of such partnership, company, syndicate or other association and the nature and extent of such director's or promoter's interest in the nature and extent of the interest of such partnership, company, syndicate or other association and the nature and extent of such director's or promoter's interest in the partnership, company, syndicate or other association, with a statement of all sums paid or agreed to be paid to him or to it in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director or otherwise for services rendered by him or by it in connection with the promotion or formation of the company.

(Signature of the persons above-named as directors or proposed directors or of their agents authorized in writing.)

Date.....

Note: Companies approved to operate under the Botswana Financial Services Centre may denominate their share capital in major convertible currencies, namely, the United States Dollars-USD, the British Pound Sterling-GBP and the Euro-EUR.”.

4. The Act is amended by substituting, for the Fifth Schedule, the following new Schedule — Substitution of Fifth Schedule to the Act

“FIFTH SCHEDULE

(Sections 82, 98, 314 and 320)

FORM OF ANNUAL RETURN OF A COMPANY HAVING A SHARE CAPITAL

THE COMPANIES ACT (Chapter 42:01)

Annual Return of the Company,
 Limited, made up to the day of 20
 (being the date of the first or only ordinary meeting in 20).

The address of the registered office of the company is -

Summary of Share Capital and Shares

1. Nominal Capital P
divided into ²(a) shares of P each,

2. Total number of shares taken up ²(a) to the day of 20
(date of return) P.....

3. Number of shares issued subject to payment wholly in cash ²(a)

4. (i) Number of shares issued as fully paid up otherwise than in cash ²(a)
.....

(ii) The nature of the consideration given for such shares
.....
.....
.....

5. (i) Number of shares issued as partly paid up to the extent of.....per
share otherwise than in cash ³(b)
.....

(ii) The nature of the consideration given for such shares
.....
.....
.....

6. Amount called up on each of shares ⁴(b)

7. Total amount of calls received, including payment on application and allotment and on
shares forfeited P.....

8. Total amount (if any) agreed to be considered as paid on.....shares issued as
fully paid up otherwise than in cash ⁴(b) P.....

9. Total amount (if any) agreed to be considered as paid on.....shares issued as
fully paid up to the extent of per share otherwise than in cash ⁴(b)
P.....

10. Total amount of calls unpaid P.....

²The aggregate number of shares held and not the distinctive numbers must be stated, and the aggregate must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

³When the shares are of different classes these columns should be subdivided so that the number of each class held or transferred may be shown separately.

⁴When the shares are of different classes these columns should be subdivided so that the number of each class held or transferred may be shown separately.

11. Total amount (if any) of sums paid by way of commission in respect of any shares or debentures or allowed by way of discount in respect of any debentures since date of last return P
12. The total number of shares forfeited (1) P
13. Total amount (if any) paid on shares forfeited P
- (a) if the shares are of different classes, state them separately;
 (b) where various amounts have been called, or there are shares of different classes, state them separately.

Particulars of Indebtedness

Total amount of debt due from the company secured otherwise than by operation of law.
 P

The return must be signed *at the end* by a director and the secretary of the company.

Presented for filing by

List of persons holding shares not fully paid up in the Company, Limited, on theday of.....20....., and of persons who have held shares therein not fully paid up at any time since the date of the last return, or in the case of the first return, of the incorporation of the company.

Name and Addresses				Account of shares not fully paid-up				Names and addresses of transferees
Folio in register ledger containing particulars	Surname	Forename	Address	Number of shares held by existing members at date of return ⁵ (a) and ⁶ (b)	Particulars of shares transferred during the preceding year by persons who are still members ⁷ (c)		Particulars of shares transferred during the preceding year by persons who have ceased to be members ⁷ (c)	
					Number ⁷ (b)	Date of registration of transfer	Number ⁷ (b)	Date of registration of transfer
.....
.....
.....

.....
 Secretary

.....
 Director

NOTE: Where the names of the members are entered in alphabetical order on the Register, no folio number need be given.

⁵ The aggregate number of shares held and not the distinctive numbers stated, and the aggregate must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

⁶ When the shares are of different classes these columns should be subdivided so that the number of each class held or transferred may be shown separately.

⁷ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee shall be inserted in the column provided therefor.

Names and addresses of the directors, auditors and secretaries of the.....
.....Limited, on the
day of, 20.....

Directors

<i>Names</i>	<i>Addresses</i>

Auditors

<i>Names</i>	<i>Addresses</i>

Secretaries

<i>Names</i>	<i>Addresses</i>

.....
Director

.....
Secretary

Copy of last audited balance sheet and accounts of the company (not required in the case of a private company unless one or more shareholders of such private company is a company which is not a private company).

Note: This return must include a copy, certified both by a director and by the secretary of the company to be a true copy, of every balance sheet (including every document required by law to be annexed to the balance sheet) laid before the company in general meeting during the period to which the summary relates, and of the report of the directors accompanying such balance sheet.

CERTIFICATES TO BE GIVEN BY A PRIVATE COMPANY

- A. We certify that the company has not since the date of the incorporation of the company/the last Annual Return issued any invitation to the public to subscribe for any shares or debentures of the company.

.....
Director
.....

Secretary

- B. Should the number of members of the company exceed 50, the following certificate is required—

We certify that the excess of members of the company above 50 consists wholly of persons who are in the employment of the company and/or of persons who, having been formerly in the employment of the company, were while in such employment, and have continued after the determination of such employment, to be members of the company.

.....
Director
.....

Secretary

RETURN OF TRANSFER OF SHARES OF A COMPANY

THE COMPANIES ACT (Chapter 42:01)

RETURN OF TRANSFER OF SHARES of the.....
Company Limited

- A. Information relating to transferee who is to be the beneficial holder of the shares transferred:

1. Name
Surname.....
First name(s).....
2. Sex F/M
3. Age.....
4. Nationality.....
5. Postal Address.....
6. Occupation.....
7. Number of shares transferred.....
8. Mode of transfer (i.e. whether by sale, assignment, etc.).....
9. Price of shares transferred.....
10. Date of transfer.....

*Delete whichever is inappropriate

B. Information relating to the person who is the beneficial holder of the shares transferred:

1. Name
Surname
First name(s)
2. Sex F/M
3. Nationality
4. Postal Address
5. Occupation
6. Number of shares allotted
7. Date of allotment of shares
8. Value of shares allotted

.....
Secretary

.....
Director

DECLARATION OF BENEFICIAL SHAREHOLDERS OF A COMPANY

..... Company Limited made on the
day of 20

A. Particulars of beneficial shareholder not being a corporate shareholder

1. Name
Surname
First name(s)
2. Sex F/M
3. Age
4. Nationality
5. Occupation
6. Postal Address

B. Particulars of corporate beneficial shareholder

1. Name of company
2. Particulars relating to principal representative of the company in Botswana
 - (a) Surname
 - First name(s)
 - (b) Sex F/M
 - (c) Age
 - (d) Nationality
 - (e) Occupation

.....
Secretary

.....
Director

Note. Companies approved to operate under the Botswana Financial Services Centre may denominate their share capital in major convertible currencies, namely, the United States Dollars-USD, the British Pound Sterling-GBP and the Euro-EUR.”.

MADE this 20th day of October, 2006.

N.D. MOROKA,
Minister for Trade and Industry.

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