

COMPANIES (AMENDMENT) ACT, 2014

No. 22



of 2014

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Companies Act.

Date of Assent: 27.08.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Companies (Amendment) Act, 2014, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. Section 22 of the Companies Act (referred to as “the Act”) is amended by substituting for that section, the following new section —

Amendment of section 22 of Cap. 42:01

“Registration 22. (1) On receipt of a properly completed application for registration of a company, the Registrar shall —
(a) enter the particulars of the company in the register;
(b) assign a unique number to the company as its company number; and
(c) issue a certificate of incorporation in the prescribed form.

(2) Notwithstanding the provisions of subsection (1), the Registrar may refuse to register a company if, in his opinion, it is in the public interest to do so.”.

3. Section 48 of the Act is amended by inserting, immediately after subsection (3), the following new subsection —

Amendment of section 48 of the Act

“(3A.) Where shares in a company are transferred in accordance with this section, a copy of the share register in which such transfer is entered shall, within 30 days, be lodged with the Registrar.”.

Amendment of
section 355 of
the Act
Cap. 42:03

4. Section 355 of the Act is amended by inserting, immediately after subsection (5), the following new subsections —

“(5A.) A building society registered under the Building Societies Act may apply to the Registrar to be registered and continued as if it had been incorporated under this Act.

(6A.) An application under subsection (5A.) shall be supported by —

- (a) a copy of the certificate of registration of the building society;
- (b) a copy of the rules of the building society;
- (c) a statement whether the company applies to be registered as a company limited by shares or by guarantee, and whether as a public company or a private company;
- (d) a statement of the charges on the building society’s assets;
- (e) the documents and information that are required to register a company under Part II; and
- (f) any other documents and information the Registrar may require.

(7A.) Where a building society which is registered under the Building Societies Act is registered under this Act, the Registrar shall notify the Registrar of Building Societies, in writing, of such registration.”

Amendment of
section 358 of
the Act

5. Section 358 of the Act is amended by substituting for subsection (1), the following new subsection —

“(1) As soon as the Registrar receives a properly completed application from a foreign company, a statutory corporation or a building society for registration as a company under this Act, and in the case of a foreign company, is satisfied that the type of company named in the application in accordance with paragraph (c) of section 355 (2) is an appropriate type of company for continuation of the company in Botswana, and in the case of a statutory corporation or a building society, is satisfied that the type of company named in the application in accordance with paragraph (c) of section 355 (5) is an appropriate company for registration and continuation of the statutory company or building society, the Registrar shall —

- (a) enter on the register of companies the particulars of the company required under section 21; and
- (b) issue a certificate of registration in the prescribed form.”

Amendment of
section 359 of
the Act

6. Section 359 of the Act is amended by substituting for that section, the following new section —

“Effect of
registration

359. (1) The registration of a foreign company, a statutory corporation or a building society under this Act does not —

- (a) create a new legal entity;
- (b) prejudice or affect the identity of the body corporate or building society constituted by the company or its continuity as a legal entity;
- (c) affect the property, rights or obligations of the company or building society; or
- (d) affect proceedings by or against the company or building society.

(2) Proceedings that could have been commenced or continued by or against the foreign company, statutory corporation or building society before registration under this Act may be commenced or continued by or against the company after registration.

(3) Upon registration of a foreign company, a statutory corporation or a building society under this Act, all the provisions of this Act shall apply to that company, statutory corporation or building society as if it were a company registered under this Act as a company limited by shares or by guarantee and as a public company or private company, as the case may be.”

7. The Act is amended by inserting, immediately after section 525, the following new section

Amendment
of the Act

“Deregistration of a company 525A. The Registrar may deregister a company if, in his opinion, it is in the public interest to do so.”

PASSED by the National Assembly this 28th day of July, 2014.

BARBARA N. DITHAPO,
Clerk of the National Assembly.