



**LEGISLATIVE  
UPDATE**

MARCH - APRIL 2021

Legislative developments during the  
reporting period of March and April 2021

## THE OBJECTIVE

The objective of this report is to inform our clients of any new legislative developments during the reporting period of March 2021 and April 2021. The report provides a record of new legislation published in the Government Gazette in a summary form. Legislation for purposes of this report refers to Acts of Parliament, regulations prescribed pursuant to Acts of Parliament, and any other statutory instruments and Bills before the National Assembly.

For purposes of the below table, defined terms used in each row shall bear the meaning as given thereto in their respective row and shall not bear the same meaning when used in other rows.

UPDATE	COMMENT	DATE PUBLISHED
<b>Tobacco Control Bill, 2021 – Bill No. 9 of 2021 (the “Bill”)</b>	<p>The object of the Bill is to repeal and re-enact the Control of Smoking Act (Cap. 65:04) to align it to the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC) to which Botswana is a party. The Bill will, inter alia, provide for:</p> <ul style="list-style-type: none"><li>• The establishment of the Tobacco Control Committee;</li><li>• Licensing procedures; and</li><li>• Protection of persons from tobacco smoke and declaring individuals’ rights to a smoke free environment.</li></ul>	12 March 2021
<b>Copyright and Neighbouring Rights (Amendment) Act (Date of Commencement) Order, 2021 – S.I. No. 16 of 2021 (the “Order”)</b>	<p>The Order commences the Copyright and Neighbouring Rights (Amendment) Act (Act No.9 of 2012) as at 12 March 2021.</p>	12 March 2021

UPDATE	COMMENT	DATE PUBLISHED
<p><b>Motor Vehicle Accident Fund (Amendment) Bill, 2021 - Bill No. 10 of 2021 (the “Bill”)</b></p>	<p>The object of the Bill is to amend the Motor Vehicle Accident Fund Act (Cap. 69:02). Most notably:</p> <ul style="list-style-type: none"> <li>• the word ‘claimant’ has been re-defined to allow emancipated minors to deal directly with the Motor Vehicle Accident Fund (the “Fund”) and ‘vehicle accident’ has been re-defined to ensure that only vehicle accidents that are proximate to the act of driving a motor vehicle are claimable from the Fund;</li> <li>• the period of prescription of claims has been extended from 3 years to 5 years;</li> <li>• the Fund is enabled to recover fully the amount the Fund has paid as compensation or which the Fund shall be liable to pay as compensation to the claimants; and</li> <li>• every person who drives into Botswana a foreign registered vehicle shall be required to pay to the Fund vehicle third party insurance cover as may be prescribed.</li> </ul>	<p>12 March 2021</p>
<p><b>Tourism (Amendment) Regulations 2021 – S.I. No 18 of 2021 (the “Regulations”)</b></p>	<p>The Regulations amend Regulation 4 of the Tourism Act (Cap. 42:09). This is achieved by inserting immediately after sub-regulation (1) the new sub-regulation (1A), further, the Regulations introduce new schedules.</p>	<p>12 March 2021</p>

UPDATE	COMMENT	DATE PUBLISHED
<p><b>Married Persons Property (Amendment) Bill, 2021 – Bill No.12 of 2021 (the “Bill”)</b></p>	<p>The object of the Bill is to amend the Married Persons Property Act (Cap. 29:03) (the Act).</p> <p>The Bill amends section 10 of the Act in order to give a 24-months moratorium to persons whose instruments have not been registered with the Deeds Registry, further the Bill introduces sections 10A; 10B; and 10C to</p> <ul style="list-style-type: none"> <li>• empower the Registrar of Marriages to issue property regime forms to persons whose instruments were lost before registration at the Deeds Registry pursuant to an affidavit;</li> <li>• empower the Registrar of Marriages to issue, to persons who were married out of community of property under the repealed Act, and therefore did not have any form, a form as proof for an out of community of property regime;</li> <li>• empower the Registrar of Marriages to issue property regime forms for marriages solemnized between a citizen and a non-citizen before January 1971 and were presumed to be out of community of property; and</li> <li>• make provision for the offence of perjury and provide a penalty for persons who commit perjury by giving false information in their affidavits.</li> </ul>	<p>26 March 2021</p>

UPDATE	COMMENT	DATE PUBLISHED
<p><b>Income Tax (Amendment) Bill, 2021 – Bill No.11 of 2021 (the “Bill”)</b></p>	<p>The object of the Bill is to amend the Income Tax Act (Cap. 52:01) in order to increase the annual individual income tax threshold from BWP 36 000.00 to BWP 48 000.00 and the dividend tax rate from 7.5 to 10 per cent.</p>	<p>26 March 2021</p>
<p><b>Wildlife Conservation and National Parks (Open Season Hunting Declaration) Order, 2021 – S.I. No. 28 of 2021 (the “Order”)</b></p>	<p>The Order declares the following:</p> <ul style="list-style-type: none"> <li>• The period beginning 06 April 2021 to 31 December 2021 is declared open season for special elephant quota;</li> <li>• The period beginning 06 April 2021 to 31 January 2022 is declared open season for citizen hunting in controlled hunting areas CT 16, CT 18, CT 24, CT 25 and NE 1 for hunting elephants only;</li> <li>• The period beginning 06 April 2021 to 21 September 2021 is declared open hunting season for all the other controlled hunting areas.</li> </ul>	<p>26 March 2021</p>
<p><b>Environmental Assessment (Amendment) Act (Date of Commencement) Order, 2021 – S.I. No. 29 of 2021 (the “Order”)</b></p>	<p>The Order commences the Environmental Assessment (Amendment) Act (Act No.11 of 2020) as at 01 April 2021.</p>	<p>26 March 2021</p>

UPDATE	COMMENT	DATE PUBLISHED
<p><b>Environmental Assessment (Amendment) Regulations, 2021 – S.I. No. 30 of 2021 (the “Regulations”)</b></p>	<p>The Regulations introduce the following amendments:</p> <ul style="list-style-type: none"> <li>• Substituting the words, “section 6 (5)” with “section 6 (5) (c)” in regulation 5</li> <li>• Substituting the words, “section 8 (1)” with “section 8 (2)”</li> <li>• Substituting schedule 1 with new schedules.</li> </ul>	<p>26 March 2021</p>
<p><b>Livestock Improvement Regulations, 2021 – S.I. No. 39 of 2021 (the “Regulations”)</b></p>	<p>The Regulations are passed in the exercise of the powers conferred on the Minister of Agricultural Development and Food Security by section 38 (Regulations) of the Livestock Improvement Act, No. 9 of 2009. Most notably, making provision for:</p> <ul style="list-style-type: none"> <li>• the creation of a livestock breeders’ society;</li> <li>• standards of importation of and conditions of sale of animal and animal genetic material (“AAGM”);</li> <li>• guidelines for import and export of AAGMs;</li> <li>• guidelines for importation of poultry, fertile or hatched eggs;</li> <li>• duties of authorised officers and registration of registering authorities; and</li> <li>• the creation of offences and penalties.</li> </ul>	<p>16 April 2021</p>

UPDATE	COMMENT	DATE PUBLISHED
<p><b>Marriage (Amendment) Bill, 2021 – Bill No. 14 of 2021 (the “Bill”)</b></p>	<p>The object of the Bill is to amend certain sections of the Marriage Act [CAP 29:01] (the Act) to make it consistent with the Convention on the Rights of a Child and the best interest of the child theme of the Children’s Act [CAP 28:04] (the Children’s Act) and to answer the rights of persons with illnesses and those of different religious backgrounds. The Bill therefore:</p> <ul style="list-style-type: none"> <li>• does away with the language of “insane” person and allows for persons with mental illnesses to have a reputable presumption of capacity to consent to marry so that anyone who alleges that such a person does not have the necessary capacity, would by that, cause a marriage officer to require a medical examination of the said marriage party;</li> <li>• prohibits the marriages of persons under the age of 18, consistent with the Interpretation Act [CAP 01:04] and the Children’s Act;</li> <li>• deletes section 15 of the Act (Consent to marriage by minors) to ensure that child marriages are totally prohibited. Child marriages is not defined in the Bill or the Act. In the premises, we assume that child bears the same meaning as in the Children’s Act; and inserts section 22A to the Act to ensure that whilst marriages of any form by a person under the age of 18 are prohibited, those of Customary, Muslim, Hindu or other religious marriage contracted before the amendments of the Bill are however preserved.</li> </ul>	<p>16 April 2021</p>