

# LEGISLATIVE UPDATE

FOR THE MONTH OF  
AUGUST 2022

The objective of this report is to inform our valued clients of new legislative developments during the reporting period of August 2022.



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, any other statutory instruments and Bills before the National Assembly.

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

UPDATE	COMMENT	DATE PUBLISHED	EFFECTIVE DATE
Value Added Tax (Amendment) Bill – Bill No. 14 of 2022 (The “Bill”)	The objective of the Bill is to amend the Value Added Tax Act by imposing zero rating on taxable supply on liquid petroleum gas and cooking oil, for a period of six months.	1 August 2022	N/A
Value Added Tax (Decrease in Rate of Tax) Order, 2022 – S.I. No. 96 of 2022 (the “Order”)	The Order, which came into operation on 3 August 2022, provides that the rate of value added tax payable in terms of section 7(1) of the Value Added Tax Act [Cap 50:03] has been reduced from 14 per cent to 12 per cent for a period of six months.	1 August 2022	3 August 2022
Value Added Tax (Amendment) Act No. 23 of 2022 (the “Act”)	The first schedule to the Act has been amended under paragraph 2 (y) by inserting immediately after subparagraph (vii), the following new entries:  “(viii) cooking oil as specified under Customs Tariff Heading 15:07, 15:08, 15:09, 15:10, 15:11, 15:12, 15:13, 15:14 and 15:15 for a period of six months, with effect from 3rd August, 2022, and (ix) liquid petroleum gas as specified under Customs Tariff Heading 2711.11, 2711.12, 2711.13.10, 2711.13.90, 2711.14, and 2711.19, for a period of six months, with effect from 3rd August, 2022.”	3 August 2022	3 August 2022

UPDATE	COMMENT	DATE PUBLISHED	EFFECTIVE DATE
<b>Botswana Energy Regulatory Authority (Amendment) Bill – Bill No. 16 of 2022 (The “Bill”)</b>	<p>The object of the Bill is to amend the Botswana Energy Regulatory Authority Act [Cap 74:11] to allow Government, through a designated public body, to maintain strategic reserves and commercial trading stocks of petroleum products for purposes of:</p> <ul style="list-style-type: none"> <li>maintaining strategic reserves of petroleum products in the country;</li> <li>ensuring continuity of supply of petroleum products; and</li> <li>ensuring meaningful participation of citizen-owned oil companies in the value chain of the petroleum industry.</li> </ul> <p>The Bill proposes the following amendments:</p> <ul style="list-style-type: none"> <li>clause 2 of the Bill amends section 2 of the Act by inserting the new definitions “commercial trading stocks”, “public body” and “strategic petroleum reserves”; and</li> <li>clause 3 of the Bill amends the Act by inserting a new section 72A, which empowers the Minister, after consultation with the Authority, to authorize a public body to import, maintain and manage petroleum products for commercial trading stocks and strategic petroleum reserves.</li> </ul>	4 August 2022	N/A
<b>Data Protection (Amendment) Bill – Bill No. 22 of 2022 (the “Bill”)</b>	<p>The object of the Bill is to amend the Data Protection Act, 2018 (the “Act”), in section 54, in order to empower the Minister to prescribe the period within which data controllers and data processors are to comply with the provisions of the Act provided that such period shall not exceed 12 months.</p>	10 August 2022	N/A
<b>Retirement Funds Bill – Bill No. 23 of 2022 (the “Bill”)</b>	<p>The Bill seeks to repeal and re-enact with amendments, the Retirement Funds Act [Cap 27:03] (the “Act”) with a view to expand and strengthen the Non-Bank Financial Institutions Regulatory Authority’s (“NBFIRA”) oversight authority, to improve governance, safety, soundness, fairness, efficiency, orderliness and sustainability of retirement funds.</p> <p>A few of the key changes to the Act are as follows:</p> <ul style="list-style-type: none"> <li>Clause 8 seeks to strengthen and widen NBFIRA’s authority by, inter alia, the amendment of fund rules based on identified risks to protect members and to appoint statutory managers where necessary.</li> <li>Clause 2 introduces, expands and re-aligns definitions of some terms with the Regulations for clarity, consistency and to follow best practice, amongst others.</li> <li>Clause 9 provides for new provisions on payment of contributions in order to align with the Regulations.</li> <li>Clause 15 seeks to improve and ensure a balanced and cost-effective corporate governance of funds by adjusting the board of trustees members’ qualifications and composition, warrant the inclusion among for the board to regulate its proceedings through fund rules, and carry out a self-assessment and hence not require the services of an independent assessor regularly.</li> <li>Clause 16, 24 and 25 provide operational guidelines for key stakeholders such as funds administrators.</li> <li>Clause 19 provides for the duties of a principal officer.</li> <li>Clauses 24 and 30 prohibit the submission of false or inaccurate statements, reports and returns to NBFIRA.</li> <li>Clauses 28 and 29 provide for the duty to establish measures to prevent money laundering and financing terrorism and the duty to report financial crime respectively.</li> <li>The provision on encashment of residual funds is revised in Clause 49.</li> <li>Clauses 41-43 guide the process of winding up retirement funds.</li> <li>The management of unclaimed benefits is provided for under clause 53 in order to differentiate unclaimed benefits relating to beneficiaries and those relating to former members.</li> </ul>	11 August 2022	N/A

UPDATE	COMMENT	DATE PUBLISHED	EFFECTIVE DATE
<p><b>Credit Information Regulations, 2022 (the "Regulations")</b></p>	<p>The Regulations are an exercise of the powers conferred on the Minister of Finance by section 58 of the Credit Information Act, 2021 (the "Act").</p> <p>Section 2 of the Regulations provides for a register of credit bureaus (the "Register") to be maintained by the Bank of Botswana (the "Bank"). Further, a data provider who wishes to inspect the Register shall on payment of P200 to the Bank be allowed access.</p> <p>Section 3 provides that a person who wishes to obtain a credit bureau licence shall apply to the Bank for a licence as prescribed.</p> <p>Section 4 of the Regulations provides for the manner in which an application for variation in terms of section 10 of the Act must be made.</p> <p>Section 5 of the Regulations provides that a surrender in terms of section 12 of the Act must be in accordance with Form D set out in the schedule to the Regulations.</p> <p>Section 6 of the Regulations provides that a person who requests for a credit report in terms of section 25 of the Act from a credit bureau shall apply in accordance with Form E set out in the schedule to the Regulations.</p> <p>Section 7 of the Regulations provides that a credit bureau shall in terms of section 30(c) of the Act submit a bi-annual report in Form F set out in the schedule to the Regulations.</p> <p>Section 8 of the Regulations provides that a data provider shall provide consumer information to a credit bureau in accordance with Form G set out in the schedule to the Regulations.</p> <p>Section 9 of the Regulations provides that a data provider shall notify a data subject of adverse action by it in terms of section 36 of the Act by providing the data subject with information such as:</p> <ul style="list-style-type: none"> <li>• name and contact details of the data provider that submitted the adverse report;</li> <li>• the part of the credit report relied on in taking the adverse action;</li> <li>• the date the credit report was obtained; and</li> <li>• reasons for the adverse action.</li> </ul> <p>Section 10 of the Regulations provides that a complainant may lodge a complaint to the Bank against a credit bureau in accordance with Form H set out in the schedule to the Regulations. The section also makes provision for a complaint to be lodged on behalf of a complainant.</p> <p>The Bank is required to investigate a complaint within 90 days of receiving such complaint.</p> <p>Section 11 of the Regulations provides that an enforcement notice issued in terms of section 43 of the Act shall be in accordance with Form I set out in the schedule to the Regulations. Further, the enforcement notice must be accompanied by the following information:</p> <ul style="list-style-type: none"> <li>• the section of the Act in terms of which the notice has been issued; and</li> <li>• the date of the notice.</li> </ul> <p>Section 12 of the Regulations provides that a person may make an application to the Bank to obtain copies of permitted information in terms of section 47 of the Act in accordance with Form J set out in the schedule to the Regulations and on payment of an application fee of P100.</p> <p>Section 13 of the Regulations provides that the Bank may in terms of section 50(1) of the Act summon a senior manager, director of the board or shareholder of a credit bureau for an examination in accordance with Form K set out in the schedule to the Regulations.</p>	<p>12 August 2022</p>	<p>12 August 2022</p>