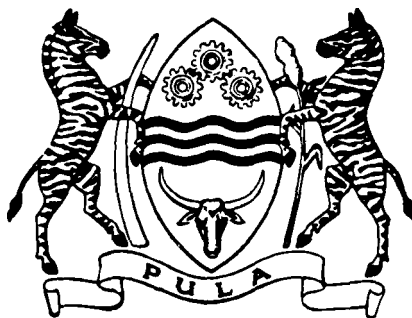


REPUBLIC OF BOTSWANA



GOVERNMENT GAZETTE

Vol. XXIV, No. 56

GABORONE

24th October, 1986

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The Botswana Government Gazette is printed by the Botswana Government Printer,
Private Bag 0081, GABORONE, Republic of Botswana.

Subscription rate is P30,00 post free for 12 months.

The price for this issue of the Gazette (including Supplement) is P2,10

Government Notice No. 376 of 1986

INDUSTRIAL DEVELOPMENT ACT
(Cap. 43:01)

Notice of Applications for Licences to Manufacture

IN ACCORDANCE with the provisions of section 6 of the Industrial Development Act, notice is hereby given that the following applications for licences to Manufacture have been made.

Name of applicant and address:

Bell — Air (Pty) Ltd.,
P.O. Box 1326,
Gaborone.

List of products it is proposed to manufacture:

Air-Filters

Proposed location of manufacturing activities:

Gaborone.

Name of applicant and address:

Metal Box Company (Pty) Ltd.,
Gaborone.

List of products it is proposed to manufacture:

Recycling of empty Tinplate cans

Proposed location of manufacturing activities:

Gaborone.

2. Any person who wishes to make representations in terms of section 8(1) of the Act in respect of above mentioned applications may do so in writing to the Minister of Commerce and Industry, Private Bag 004, Gaborone, and should also send a copy of such representations to the applicant within 14 days of the second and last publication of this notice.

DATED this 26th day of September, 1986.

U.M. TAPELA,
for Permanent Secretary,
Ministry of Commerce and Industry.

L2/7/144 VI

Second Publication

Government Notice No. 384 of 1986

INDUSTRIAL DEVELOPMENT ACT
(Cap. 43:01)

Notice of Application for Licence to Manufacture

IN ACCORDANCE with the provisions of section 6 of the Industrial Development Act, notice is hereby given that the following application for licence to manufacture has been made.

Name of applicant and address:

Baba Industries (Pty) Ltd.,
P.O. Box 20550,
Gaborone.

List of products it is proposed to manufacture:

Synthetic Marble Products: Floor Tiles — Wall Panels — Furniture Tops — Bath — Basin

Proposed location of manufacturing activities:

Gaborone

2. Any person who wishes to make representations in terms of section 8 (1) of the Act may do so in writing to the Minister of Commerce and Industry, Private Bag 004, Gaborone, and should also send a copy of such representations to the applicant within 14 days of the second and last publication of this notice.

DATED this 15th day of October, 1986.

U.M. TAPELA,
*for Permanent Secretary,
Ministry of Commerce and Industry.*

L2/7/144 VI

First Publication

L2/7/98 XVIII

Government Notice No. 385 of 1986

CONSTITUTION OF BOTSWANA

Acting Appointment — Permanent Secretary, Ministry of Local Government and Lands

IN EXERCISE of the powers conferred on His Excellency the President by section 112 of the Constitution —

AMBROSE BASIPO MASALILA

has been appointed to act as Permanent Secretary, Ministry of Local Government and Lands from 6th October to 10th October, 1986 both dates inclusive.

DATED this 10th day of October, 1986.

F.G. MOGAE,
*Permanent Secretary to the President,
Office of the President.*

L2/7/98 XVIII

Government Notice No. 386 of 1986

CONSTITUTION OF BOTSWANA

Acting Appointment — Permanent Secretary, Ministry of Education

IN EXERCISE of the powers conferred on His Excellency the President by section 112 of the Constitution —

JACOB ROBIN SWARTLAND

has been appointed to act as Permanent Secretary, Ministry of Education from 17th October to 8th November, 1986 both dates inclusive.

DATED this 15th day of October, 1986.

F.G. MOGAE,
*Permanent Secretary to the President,
Office of the President.*

L2/7/98 XVIII

Government Notice No. 387 of 1986

CONSTITUTION OF BOTSWANA

Acting Appointment — Permanent Secretary, Ministry of Finance and Development Planning

IN EXERCISE of the powers conferred on His Excellency the President by section 112 of the Constitution —

ONTEFETSE KENNETH MATAMBO

has been appointed to act as Permanent Secretary, Ministry of Finance and Development Planning from 13th October to 19th October, 1986.

DATED this 15th day of October, 1986.

F.G. MOGAE,
*Permanent Secretary to the President,
Office of the President.*

L2/7/98 XVIII

Government Notice No. 388 of 1986

CONSTITUTION OF BOTSWANA

Acting Appointment — Permanent Secretary to the President, Office of the President

IN EXERCISE of the powers conferred on His Excellency the President by section 112 of the Constitution —

LEBANG MOGAETSHO MPOTOKWANE

has been appointed to act as Permanent Secretary to the President from 17th October to 1st November, 1986.

DATED this 15th day of October, 1986.

F.G. MOGAE,
*Permanent Secretary to the President,
Office of the President.*

Government Notice No. 389 of 1986

BOTSWANA SAVINGS BANK ACT

(Cap. 56:03)

Appointment of Board Members — Botswana Savings Bank

IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 4 of the Botswana Savings Bank Act —

J.C. ANDERSON
and
E.W. JOHWA

have been appointed members of the Board of the Botswana Savings Bank.

DATED this 10th day of October, 1986.

B. GAOLATHE,
*Permanent Secretary, Ministry of Finance
and Development Planning.*

L2/7/20 1

BANK OF BOTSWANA ACT

(Cap. 74:07)

Statement of assets and liabilities as at 30th August, 1986

<i>Assets</i>	<i>August, 1986</i>	<i>August, 1985</i>	<i>Liabilities</i>	<i>August, 1986</i>	<i>August, 1985</i>
<i>International Reserve</i>	<i>P</i>	<i>P</i>	<i>Capital and Reserves</i>	<i>P</i>	<i>P</i>
Balances with Banks	859 203 950	864 946 220	(Authorised Capital)	5 000 000)	5 000 000)
Treasury Bills and Securities	1 274 776 798	330 325 701	Paid up Capital	3 559 549	3 559 549
Holding of S.D.R.'s	28 473 721	19 442 336	General Reserve	34 775 158	24 723 407
Reserve Tranche at the I.M.F.	38 991 414	27 586 058	Special Reserve	421 868 105	120 029 542
	2 201 445 883	1 242 303 315		460 202 812	148 312 498
<i>Fixed Assets</i>	1 941 825	2 606 126	<i>Currency</i>		
<i>Other Assets</i>	5 289 089	4 457 414	Notes in Circulation	61 453 304	51 745 962
			Coins in Circulation	3403 105	2 946 710
				64 856 409	54 692 672
			<i>Deposits</i>		
			Government		
			Accountant-General	1 099 200 107	513 608 800
			Other	4893 593	6 853 393
			Bankers	109 710 130	85 655 499
			Others	166 821 921	73 003 460
				1 380 625 751	679 121 152
			<i>Other Liabilities</i>		
			Allocation of S.D.R.'s	4 348 021	4 348 021
			Liability of Government (IMF	38 991 414	27 586 058
			Reserve Tranche)		
			Other (1)	259 652 390	335 306 454
				302 991 797	367 240 533
	2 208 676 797	1 249 366 855		2 208 676 797	1 249 366 855

Note (1) Includes the estimated net revaluation gain arising from changes in the International Reserves since 1st January, 1986 except for the revaluation profit on Baring Brothers portfolio which is reflected at the position of 30th June, 1986.

C.N. KIKONYOGO,
Governor.

L2/7/225 III

Government Notice No. 391 of 1986

POLICE ACT
(Cap. 21:01)

Confirmation of Appointments

IN PURSUANCE of the provisions of section 8 of the Police Act it is hereby notified that the appointments of the following police officers have been confirmed —

<i>No.</i>	<i>Rank</i>	<i>Name</i>	<i>Date</i>
6108	Constable	B. Babusi	5.10.83 — 5.10.85
6333	"	B. Ntengang	14.9.84 — 14.9.86
6334	"	A. Letlole	14.9.84 — 14.9.86
6337	"	L. Moloi	14.9.84 — 14.9.86
6341	"	M. Mathitha	14.9.84 — 14.9.86
6352	"	T. Letibirwe	14.9.84 — 14.9.86
6364	"	M. Tlhalefang	14.9.84 — 14.9.86
6367	"	S. Thobogang	14.9.84 — 14.9.86
6371	"	K. Chipisani	14.9.84 — 14.9.86
6385	"	D. William	14.9.84 — 14.9.86
6387	"	B. Mmolawa	14.9.84 — 14.9.86
6388	"	O. Dipholo	14.9.84 — 14.9.86
6397	"	K. Sebinyane	14.9.84 — 14.9.86
6401	"	E. Pilane	14.9.84 — 14.9.86
6422	"	G. Kokeletso	14.9.84 — 14.9.86
6078	"	B. Galebotswe	5.10.83 — 5.10.85
6118	"	M. Matsela	5.10.83 — 5.10.85
6294	"	D. Omphithetse	14.9.84 — 14.9.86
6295	"	B. Kgwadi	14.9.84 — 14.9.86
6303	"	P. Motlhasedi	14.9.84 — 14.9.86
6308	"	G. Dintwanyane	14.9.84 — 14.9.86
6315	"	P.J. Mathys	14.9.84 — 14.9.86
6353	"	M. Bachoni	14.9.84 — 14.9.86
6368	"	B. Motlhokoditse	14.9.84 — 14.9.86
6372	"	T. Sibanda	14.9.84 — 14.9.86
6386	"	B. Sekwakwa	14.9.84 — 14.9.86
6406	"	L. Masibane	14.9.84 — 14.9.86
6421	"	M. Rebaone	14.9.84 — 14.9.86
6425	"	S. Manyema	14.9.84 — 14.9.86

L2/7/182

Government Notice No. 392 of 1986

EDUCATION
(Cap. 58:01)

Application to Register a School

IN EXERCISE of the powers conferred on the Permanent Secretary of the Ministry of Education by section 16 of the Education Act, it is hereby notified for general information that the Ghanzi District Council has made an application to me for the registration of a school named Metsemantsho Boarding School situated at Metsemantsho Village.

2. Any person or body of persons who may wish to object to this application may lodge in writing with me and with the applicant at Private Bag 15, Ghanzi, a statement of his or its grounds of objection within six weeks of the publication of this notice.

DATED this 9th day of October, 1986.

K.M. MASOGO,
Permanent Secretary,
Ministry of Education.

L2/7/87 XX

Government Notice No. 393 of 1986

EDUCATION

(Cap. 58:01)

Application to Register a School

IN EXERCISE of the powers conferred on the Permanent Secretary of the Ministry of Education by section 16 of the Education Act, it is hereby notified for general information that the Kgalagadi District Council has made an application to me for the registration of a school named Hunhukwe Primary School situated at Tsabong Village.

2. Any person or body of persons who may wish to object to this application may lodge in writing with me and with the applicant at Private Bag 005, Tsabong, a statement of his or its grounds of objection within six weeks of the publication of this notice.

DATED this 2nd day of October, 1986.

K.M. MASOGO,
*Permanent Secretary,
Ministry of Education.*

L2/7/87 XX

Government Notice No. 394 of 1986

CHANGE OF NAME ACT

(Cap. 15:06)

Application for Authorization of Change of Surname

IN PURSUANCE of the provisions of section 4(1) of the Change of Name Act, notice is hereby given that an application has been made to the Minister of Home Affairs by each of the persons listed hereto for the Minister's authority to assume the surname specified in relation to his name and address.

2. Any person who objects to any or all of the applications may notify the Minister of such objection and the ground thereof within 30 days of the publication of this notice.

<i>Name and address</i>	<i>Proposed Surname</i>	<i>Reasons given for wishing to assume proposed surname.</i>
Ntsima Mmamongau, P.O. Box 10023, Modipane.	Motlhale	Mmamongau is his grandfather's name. Motlhale is his father's name.
Gaongalelwe Mary Maphakela, P.O. Box 1, Gomare.	Morris	Maphakela is his step-father's name. Morris is his father's name.
Mompoloki Moseki, P.O. Box 729, Serowe.	Kobe	Moseki is his uncle's name. Kobe is his grandfather's name.
Nchunga Mwahi Mwahi, P.O. Box 92, Gaborone.	Mosweu	Mwahi is his father's first name. Mosweu is his grandfather's name.
Ogopotse Rashono, P.O. Box 20905, Gaborone.	Godirwang	Rashono is his father's name. Godirwang is his grandfather's name.

DATED this 9th day of October, 1986.

B.K. SEBELE,
*Permanent Secretary,
Ministry of Home Affairs.*

L2/7/105 XII

Government Notice No. 395 of 1986

STATE LAND ACT
(Cap. 32:01)

Authorisation

IN EXERCISE of the powers conferred on the President by section 4 of the State Land Act-

LOBATSE TOWN COUNCIL

is hereby authorised to grant Certificates of Rights in respect of State Land situated in the area specified in the first column of the Schedule hereto, comprising the lots whose numbers are specified in the corresponding entry in the second column of the said Schedule, the boundaries of which are more particularly delineated in the plan specified in the corresponding entry in the third column of the said Schedule, which plan is deposited with the Director of Surveys and Lands, Gaborone.

SCHEDULE

<i>First Column</i> <i>Area</i>	<i>Second Column</i> <i>Plot Number</i>	<i>Third Column</i>
Lobatse Extension 20	3173 — 3307	General Plan
	3313 — 3329	DSL No. 183/83
	3332 — 3342	
	3344 — 3392	
	3394 — 3415	
	3418 — 3475	
	3477 — 3517	
	3522 — 3557	
	3559 — 3578	
	3580 — 3588	
	3592 — 3790	
	3792 — 3831	
	3834 — 3847	
	3851 — 3894	
	3896 — 3936	
	3938 — 3972	
	3974 — 4005	
	4007 — 4016	

DATED at Gaborone this 7th day of October, 1986.

Q.K.J. MASIRE,
President.

PUBLIC NOTICES

Change of Name

NOTICE IS HEREBY given in terms of section 22 of the Companies Act Cap. 42:01 that Litemaster (Botswana) (Pty) Limited proposes to change its name to Lighting Manufacturers Botswana (Pty) Limited and that application will be made to the Registrar of Companies for his formal approval to the change of name after 14 days have elapsed from the date of publication of this notice.

DELOITTE HASKINS & SELLS MANAGEMENT SERVICES (NORTH) (PTY) LIMITED, *Secretaries,*
P.O. Box 834. FRANCISTOWN.

Selebi-Phikwe Town Council — Tender No. 18/1986
FENCING OF SELEBI-PHIKWE TOWN BOUNDARY

TENDERS ARE INVITED by Selebi-Phikwe Town Council from citizen owned companies and/or majority citizen owned companies (51% or more shares in the companies belonging to citizens) for the fencing of Selebi-Phikwe Town boundary.

Tender documents can be obtained from the office of the Town Engineer, Selebi-Phikwe Town Council during working hours, as from Monday, 20th October, 1986. Tender documents duly completed to be submitted in a plain sealed envelope clearly marked "Tender No. 18/1986 — Fencing of Selebi-Phikwe Town Boundary" addressed to Town Clerk, Selebi-Phikwe Town Council, Private Bag 001, Selebi-Phikwe to reach him not later than 12.00 noon on Friday, 28th November, 1986.

Tender will be opened on the same day at 14.00 hours. Tenderers wishing to be present at the opening of the tenders are free to do so.

Telegraphic, telex or telephonic tenders will not be considered. Notwithstanding anything contained in the foregoing, Selebi-Phikwe Town Council is not bound to accept the lowest or any tender nor to incur any expenses in the preparation thereof.

U.J. BADKAR,
for Town Clerk.

Second Publication

Francistown Town Council — Tender No. 15/86
CONSTRUCTION OF 16 CLASSROOM PRIMARY SCHOOL IN BLOCK 1 —
FRANCISTOWN PHASE IV DEVELOPMENT

TENDERS ARE INVITED by Francistown Town Council for the construction of 16 classroom Primary school in Block 1, Francistown Phase IV Development.

Tender documents may be obtained from the Town Engineers Office, Plot 1865, Central Industrial Area, Francistown during office hours on payment of a non-refundable tender deposit of Twenty Pula per complete set.

The documents shall be issued only to companies that can show proof of being registered with Central Tender Board in Grade B and above or to companies that can show proof of past work done in a single project to a value more than P150 000 with Government or other private institutions.

Tenders duly completed in a plain sealed envelope clearly marked "Tender No. 15/86" should be sent to the Town Clerk, Private Bag 40, Francistown to reach him not later than 14.00 hours on Tuesday the 18th November, 1986.

Tenders shall be opened the same day in the presence of tenderers who may wish to be present. Francistown Town Council does not bind itself to accept the lowest tender, nor to any tender or to assign any reason thereof.

J.J. BERNARD,
for Town Clerk.

Second Publication

Licences

Notice is hereby given that the undersigned intends to apply for a certificate in terms of section 10 of the Trading Act, 1966 (No. 6 of 1966) to obtain a

<i>Name and Address</i>	<i>Type of Licence</i>	<i>Location</i>	<i>Council</i>	<i>Date of hearing</i>
D. Kotle, c/o Lizo Ngcongco & Co, P.O. Box 47, Lobatse.	General Trading	Ramotswa	South East District Council	11.11.86
M.B. Enterprises (Pty) Ltd, P.O. Box 21, Mochudi.	Supermarket	Boseja	Kgatlang District Council	27.11.86
E.N. Tshukudu, P.O. Box 1147, Mochudi.	Small General Trading	Malotwana	Kgatlang District Council	27.11.86
Cash Bazaar (Pty) Ltd, Private Bag 115, Gaborone.	General Trading	Rammopyana	Kgatlang District Council	27.11.86
Wool World (Pty) Ltd, c/o Kirby, Helfer & Collins, P.O. Box 170, Gaborone.	Small General Trading	Plot 5176, Bontleng Mall	Gaborone City Council	19.11.86
Globe Imports & Exports (Botswana) (Pty) Ltd, c/o Pilane, Modisanyane & Dow, P.O. Box 1300, Gaborone.	Wholesale	Lot 10032, Broadhurst Industrial Estate	Gaborone City Council	19.11.86
Dr.H. TLale, P.O. Box 40043, Gaborone.	Chemist	Plot 17984 Broadhurst Mall	Gaborone City Council	19.11.86
Larona (Pty) Ltd, P.O. Box 40701, Gaborone.	Wholesale	Plot 5651	Gaborone City Council	19.11.86
M.N. Tajbhay, c/o Attorneys Rahim Khan & Company, P.O. Box 1884, Gaborone.	Speciality	Plot 5627, Broadhurst	Gaborone City Council	19.11.86
S. Kablay, P.O. Box 25, Letlhakeng.	General Trading	Letlhakeng	Kweneng District Council	25.11.86
Durga Paper Products (Pty) Ltd, P.O. Box 1802, Gaborone.	Books and Stationery	Jweneng Road Kanye	Southern District Council	6.11.86
K. Kasinja, P.O. Box 10454, Tatitown, Francistown.	Hair Dressing Salon	Plot 856/7	Francistown Town Council	13.11.86
B. Nsumiwa, Private Bag 4, Tsheshebe.	Chibuku Depot	Senyawwe	Central District Council	27.11.86
P. Pilane, P.O. Box 20031, Gaborone.	Hair Salon and Boutique	Plot No. 229 Town Centre	Lobatse Town Council	6.11.86
Electrical and Refrigeration Systems (Pty) Ltd, c/o Business Operation Bureau (Pty) Ltd, P.O. Box 283, Lobatse.	Wholesale	Lot 195	Lobatse Town Council	6.11.86

P. Moatlhodi, P.O. Box 97, Tonata.	Small General Trading	Tonata	Central District Council	27.11.86
B. Kehitile, P.O. Box 473, Francistown.	Butchery	Dukwe Village	Central District Council	27.11.86
J.G. Otimile, P.O. Box 179, Orapa.	Small General Trading	Mopipi Village	Central District Council	27.11.86
A.S. Molongwe, P.O. Box 8, Orapa.	General Trading	Letlhakane Kgongwe Ward	Central District Council	27.11.86
M. Chaoka, c/o Premier Secretarial & Business (Pty) Ltd, P.O. Box 1860, Gaborone.	Small General Trading, Fresh Produce and Restaurant	Rasumana	Southern District Council	6.11.86
Sandveld Enterprises (Pty) Ltd, P.O. Box 1860, Gaborone.	Small General Trading	Maokane in the Western Ngwaketse	Southern District Council	6.11.86

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said council of his intention to oppose such application and state the grounds upon which his objection is based.

Second Publication

Hawkers/Street Vendors Licences

Notice is hereby given that the undersigned intends to apply for a Licence in terms of Bye-Laws 5 and 8 of Gaborone Hawking and Street Vending Bye-Laws, 1977 to obtain a Hawkers Licence/Street Vendor's Licence in respect of the following areas within the Gaborone Township —

<i>Name and Address</i>	<i>Type of Licence</i>	<i>Place(s) where Licences applied for</i>	<i>Council</i>	<i>Date of hearing</i>
K. Matlhaku, P.O. Box 94, Ramotswa.	Street Vendor	Goo-Moeng	South East District Council	11.11.86

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said council of his intention to oppose such application and state the grounds upon which his objection is based.

Second Publication

Hawker's Licence

Notice is hereby given that the undersigned intends to apply for a certificate in terms of Bye-Law 8 of the Hawking (Model) Bye-Laws, 1967, to obtain a Hawkers Licence.

<i>Name and Address</i>	<i>Place(s) where Licence(s) Applied for</i>	<i>District Council</i>	<i>Date of hearing</i>
T. Mautle, P.O. Box 1, Ramotswa.	South East District	South East District Council	11.11.86

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said council of his intention to oppose such application and state the grounds upon which his objection is based.

Second Publication

Francistown Town Council — Tender No. 17/86**SUPPLY OF VEHICLES AND PLANT**

TENDERS ARE INVITED by Francistown Town Council for the supply and delivery of the following vehicles and Plant.

- | | |
|-------------------------------------|----------|
| (1) Dozer | — 1 No |
| (2) Wheel Loader | — 1 No |
| (3) Self Propelled Vibratory Roller | — 1 No. |
| (4) 5 Ton Tipper Trucks | — 2 Nos. |

Full specifications and requirements may be obtained from the Town Engineers Office, Plot 1865, Central Industrial Area, Francistown or on application to the Town Clerk, Francistown Town Council, Private Bag 40, Francistown.

Tenders should be submitted in a plain sealed envelope marked "Tender No. 17/86" to the Town Clerk, Private Bag 40, Francistown, not later than 14.00 hours on Tuesday the 18th November, 1986.

Telegraphic, telex or telephone tenders will not be accepted. Prices quoted in Botswana Pula should hold firm for a minimum period of 90 days from the closing date of the tender, and should include delivery Francistown Town Council stores.

Tenders shall be opened the same day in the presence of tenderers who may wish to be present. Francistown Town Council does not bind itself to accept the lowest tender, nor any tender or to assign any reason thereof.

J.J. BERNARD,
for Town Clerk.

Second Publication

Francistown Town Council — Tender No. 18/86**CONSTRUCTION OF SANITATION SUB-STRUCTURES**

TENDERS ARE INVITED by Francistown Town Council for the construction of approximately 800 sanitation substructures in Block 1 and 2 of Francistown Phase IV Development. The tender may be awarded to more than one contractor.

Tender documents may be obtained from the Town Engineer's Office, Plot 1865, Central Industrial Area, Francistown during office hours on payment of a non-refundable tender deposit of Twenty Pula per complete set. Tenders duly completed in a plain sealed envelope marked "Tender No. 18/86" should be sent to the Town Clerk, Private Bag 40, Francistown to reach him not later than 14.00 hours on Tuesday the 18th November, 1986.

Tenders shall be opened the same day in the presence of tenderers who may wish to be present. Francistown Town Council does not bind itself to accept the lowest tender nor any tender or to assign any reason thereof.

J.J. BERNARD,
for Town Clerk.

Second Publication

Francistown Town Council — Tender No. 19/86**CONSTRUCTION OF SANITATION SUB-STRUCTURES**

TENDERS ARE INVITED by Francistown Town Council for the manufacture and delivery of precast concrete cover slabs to approximately 800 sanitation substructures in Block 1 and 2 of Francistown Phase IV Development. The tender may be awarded to more than one contractor.

Tender documents may be obtained from the Town Engineer's Office, Plot 1865, Central Industrial Area, Francistown during office hours on payment of a non-refundable tender deposit of Twenty Pula per complete set. Tenders duly completed in a plain sealed envelope marked "Tender No. 19/86" should be sent to the Town Clerk, Private Bag 40, Francistown to reach him not later than 14.00 hours on Tuesday the 18th November, 1986.

Tenders shall be opened the same day in the presence of tenderers who may wish to be present. Francistown Town Council does not bind itself to accept the lowest tender nor any tender or to assign any reason thereof.

J.J. BERNARD,
for Town Clerk.

Second Publication

Transfer

NOTICE IS HEREBY GIVEN that Gasumana Enterprises (Proprietary) Limited intends to apply for Certificates in terms of section 10 of the Trading Act Cap. 43:02 to obtain:

A transfer of Small General Dealer, Fresh Produce and Restaurant Licences from Mogotsi Chaoka in respect of premises situate at Gasumana in Kanye that the Southern District Advisory Committee has determined to hear the applications on 6th November, 1986.

Any objection should be lodged with the Committee within 7 days of the last publication of this notice.

GASUMANA ENTERPRISES (PROPRIETARY) LIMITED, c/o Premier Secretarial & Business Services (Proprietary) Limited, P.O. Box 1860, GABORONE.

NOTICE IS HEREBY given that the undersigned intends to apply for a certificate in terms of section 10 of the Trading Act, 1966 (No. 6 of 1966) to obtain.

A transfer of Nkwalle's Cafe and Butchery Licence to C.S. Molefi in respect of the premises situated at Mosanta and that the Kgatleng District Council has determined that the application shall be heard by the Trade Licensing Advisory Committee on the 27th November, 1986.

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said Council of his intention to oppose such application and state the grounds upon which his objection is based.

CONSTANCE SEELETSO MOLEFI, P.O. Box 800, Mochudi.

Second Publication

Disposal of Interest in Business

NOTICE IS HEREBY given in terms of section 28 of the Trading Act, 1966, that I, J. Wycliffe have disposed of my entire business of Nkwalle's Cafe and Butchery at the premises situated at Mosanta, Mochudi to Constance Seeletso Molefi who will continue to trade under the same name and same style.

JOYCE MABE, for Nkwalle's Cafe and Butchery, P.O. Box 447, MOCHUDI.

Second Publication

Disposal

NOTICE IS HEREBY being given that in terms of section 28 (1) of the Trading Act, 1966, Maano International (Proprietary) Limited has disposed of its entire interest in the General Trading Licence in respect of the premises situated on a portion of Lot 1242 Extension 6, Gaborone to Sutton Book Suppliers (Proprietary) Limited who will trade from the said premises.

J.M. NGANUNU & CO., 191 Makgadikgadi Circle, P.O. Box 1991, GABORONE.

First Publication

Disposal of Interest

NOTICE IS HEREBY given in terms of section 28 (1) of the Trading Act, 1966 that I, J.S. Mogorosi, have disposed of my entire interest in Popa Popa Trading carrying on the business of Small General Trading to P.R. Moatlhodi, who will trade under the same name and same style and that the Central District Council has determined that the application shall be heard by the Licensing Authority on the 20th October, 1986.

Any person objecting to the grant of such certificate should within 7 days of the second publication of this notice give notice in writing to the said Council of his intention to oppose such application and state the grounds upon which his objection is based.

J.S. MOGOROSI, P.O. Box 292, TONOTA.

Second Publication

Alteration of Style

NOTICE IS HEREBY given that the undersigned intends to apply for the alteration of style of business in terms of section 25 (1) (a) of the Trading Act, Cap. 43:02 from Bottle Store to Small General Trading in respect of the premises situated at Poloka and that the Central District Council has determined that the application shall be heard by the Licensing Authority on the 27th November, 1986.

AMEDIAS NDUNA, P.O. Box 951, MAHALAPYE.

Second Publication

Change of Name

NOTICE IS HEREBY given in terms of section 22 of the Companies Act Cap 42:01 that Bonaventures (Proprietary) Limited proposes to change its name to Bonaventures Botswana (Proprietary) Limited and that the application will be made to the Registrar of Companies for his formal approval to the change of name after 14 days have elapsed from the date of the second publication of this notice.

PW BUSINESS SERVICES (NORTH) (PTY) LTD, P.O. Box 202, FRANCISTOWN.

Second Publication

Estate No. E. 28/85

ESTATE

IN THE ESTATE of the Late WILLIAM LEE, who died at Selebi-Phikwe on the 3rd October, 1985

CREDITORS AND DEBTORS in the above Estate are hereby called upon to file their claims with and to pay their debts to the undersigned within thirty (30) days from the date of publication hereof.

KIRBY, HELFER & COLLINS, 1st Floor, Co-Operative House, The Mall, P.O. Box 882, or 170, GABORONE.

Second Publication

Agencies/Representative Licence

NOTICE IS HEREBY given that Digit Agencies intends to apply for an Agent Licence to trade in the following goods: software, hardware goods, toiletry, medicines, groceries.

Any person objecting to the grant of such certificate should within 7 days of the second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone, of his intention to oppose such application and state the grounds upon which objection is based.

DIGIT AGENCIES, P.O. Box 10078, GABORONE.

Second Publication

Agencies/Representative Licence

NOTICE IS HEREBY given that Petronella Magdalena D. Loubser intends to apply for an Agent Licence to trade in the following goods: bed linen, curtaining, night wear.

Represents: AMC Classic (Pty) Ltd., Cape Town.

Any person objecting to the grant of such certificate should within 7 days of the second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone, of his intention to oppose such application and state the grounds upon which objection is based.

PETRONELLA M. D. LOUBSER, P.O. Box 387, ZEERUST 2865, RSA.

Second Publication

Kgatleng District Council — Tender No. KG 9 of 1986**SUPPLY OF VEHICLES**

TENDERS ARE INVITED for the supply of the following vehicles: —

Two Nos. — One ton, 4 X4, 6 cylinders and petrol driven pickup with the following features: —

- (a) Bushguard with steel mesh on top.
- (b) 50 litres capacity water tank for drinking purposes.
- (c) 100 litres reserve petrol tank with lockable cap.
- (d) Rear guard.
- (e) Seat belts.
- (f) Canopy up to roof level, 2 sliding windows on each side and double shutter lockable door in the rear.
- (g) Steel roof rack.
- (h) White in colour.

One No. — $\frac{3}{4}$ tonne, 4 X4, 4 cylinders and petrol driven pickup with the following features: —

- (a) Bushguard with steel mesh on top.
- (b) 50 litres capacity water tank for drinking purposes.
- (c) 100 litres reserve petrol tank with lockable cap.
- (d) Rear guard.
- (e) Seat belts.
- (f) Side rails up to roof top made from heavy duty steel pipe.
- (g) White in colour.

Please indicate the model of the vehicle and specify the delivery period.

All tenders should be submitted in a sealed envelope clearly marked "Tender No. KG. 9 of 1986 — Supply of Vehicles" and should be addressed to the Council Secretary, Kgatleng District Council, Private Bag 11, Mochudi so as to reach him not later than 4.30 p.m. of 7th November, 1986.

Tenders will be opened on 10th November, 1986 at 9.00 a.m. in the Office of the Council Secretary and interested tenderers are free to attend the official opening.

The Council is not bound to accept the lowest or any tender or to give any reasons for the non-acceptance of tender and will not be responsible for the cost incurred in the preparations thereof.

T.D. MOROBANE,
for Council Secretary.

Second Publication

Francistown Town Council — Tender No. 16/86**CONSTRUCTION OF 4 CLASSROOM BLOCK FOR NYANGABWE
PRIMARY SCHOOL — FRANCISTOWN**

TENDERS ARE INVITED by Francistown Town Council for the construction of 4 classroom Block for Nyangagwe Primary school in Francistown.

Tender documents may be obtained from the Town Engineers Office, Plot 1865, Central Industrial Area, Francistown during office hours on payment of a non-refundable tender deposit of Twenty Pula per complete set. Tenders duly completed in a plain sealed envelope marked "Tender No. 16/86" should be sent to the Town Clerk, Private Bag 40, Francistown to reach him not later than 14.00 hours on Tuesday the 18th November, 1986.

Tenders shall be opened the same day in the presence of tenders who may wish to be present. Francistown Town Council does not bind itself to accept the lowest tender, nor any tender or to assign any reason thereof.

J.J. BERNARD.
for Town Clerk.

Second Publication

**IN THE HIGH COURT OF THE REPUBLIC OF BOTSWANA
HELD AT FRANCISTOWN**

Case No. CT.(F) 72/86

In the matter between:

BOITUMELO SELELO

Plaintiff

and

KANZENI LUAMBA

Defendant

NOTICE OF SALE IN EXECUTION

IN PURSUANCE of a writ of execution of movable property issued against the Defendant, the following property will be sold by public auction at the Police Station, Kasane on Saturday, 1st November, 1986.

One Caravan Club Colour Silver registration No. BS 5675

One Mercedes Benz car colour white registration No. BS 5284 model 230

TERMS: Cash or bank guaranteed cheque immediately after the sale.

DATED at Gaborone this 9th day of OCTOBER, 1986.

MOSOJANE, PHUMAPHI & CO., *Plaintiff's Attorneys*, 5th Africa House, P.O. Box 484, FRANCISTOWN.

Second Publication

**NOTICE OF INTENTION TO ENTER INTO A CONTROLLED TRANSACTION IN TERMS
OF SECTION 5 LAND CONTROL ACT**

BE PLEASED TO TAKE NOTICE that the following controlled transaction is proposed:

THE SELLER:
THE PURCHASER:
AGRICULTURAL
LAND:

Cornelia Petronella Van Wyk
P. A. Cronje

Certain piece of land being the farm Lekkerpoet situate in the Tuli Block, Botswana
Measuring 2141,2951 (Two Thousand One Hundred and Forty One comma Two Nine Five One) Hectares

HELD:
PURCHASE

By the Seller under Deed of Transfer No. 376/84

CONSIDERATION:

P60 000,00 (Sixty Thousand Pula)

Be pleased to take notice further that should any person wish to object to the proposed controlled transaction notice of objection with reasons therefore should be addressed to the Minister of Local Government and Lands and copies to the undersigned.

MINCHIN & KELLY (BOTSWANA), Plot 688, Khwai Road, Off Botswana Road, P.O. Box 1339, GABORONE.

Second Publication

Licences

Notice is hereby given that the undersigned intends to apply for a certificate in terms of section 10 of the Trading Act, 1966 (No. 6 of 1966) to obtain a

<i>Name and Address</i>	<i>Type of Licence</i>	<i>Location</i>	<i>Council</i>	<i>Date of hearing</i>
S and R Trading Co. (Pty) Ltd, c/o Kirby, Helfer & Collins, P.O. Boxes 882 and 170, Gaborone.	General Trading	Tribal Lot 37 Kanye	Southern District Council	11.12.86
M. Bojosi, P.O. Box 922, Gaborone.	Restaurant	Kalakamati	North East District Council	20.11.86
K. Sebolai, c/o Attorneys A.R. Khan, P.O. Box 1884, Gaborone.	Restuarant	Tlokweg Mall	South East District Council	11.11.86
Crotowe (Pty) Ltd, P.O. Box 2, Gaborone.	Fresh Produce	Plot 120 Mmasedikwe Tlokweg	South East District Council	11.11.86
S. Kgotla, P.O. Box 130, Ramotswa.	Small General Trading	Goo-Nare Ward, Ramotswa	South East District Council	11.11.86
Packwell Products Botswana (Pty) Ltd, c/o Doreen Khama, Attorneys, P.O. Box 335, Gaborone.	Speciality	Plot 5680, Kudu Road, Broadhurst	Gaborone City Council	19.11.86
Kal Computer Services (Pty) Ltd, c/o Accountsec Services (Pty) Ltd, P.O. Box 1229, Gaborone.	Speciality Industrial Sites	Impala House Plot 4771,	Gaborone City Council	19.11.86
Consolidated Wire Industries Limited, c/o Minchin & Kelly (Botswana), P.O. Box 1339, Gaborone.	Speciality To trade in Wire and Wire Products	Plot 6413, Noko Road, Broadhurst Industrial	Gaborone City Council	19.11.86
M.G. Phiri, P.O. Box 532, Serowe.	General Trading	Lethakane	Central District Council	27.11.86
K.T.N. Ramosweu, P.O. Box 7, Machaneng, Via Mahalapye.	Small General Trading	Makwate Village	Central District Council	27.11.86
B. Selelo, P.O. Box 153, Mahalapye.	Restuarant	Tshikinyega	Central District Council	27.11.86
O. Kadimo, P.O. Box 168, Orapa.	Small General Trading	Lethakane	Central District Council	27.11.86
O.S. Baoki, P.O. Box 625, Mahalapye.	Small General Trading	Madiba	Central District Council	27.11.86
N. Fulukani, P.O. Box 10014, Tatitown.	Small General Trading	Borolong Village Council	Central District	27.11.86

M. Ramotswiri, P.O. Box 117, Francistown.	Chibuku Bar and Depot	Tonota (Borotsi)	Central District Council	27.11.86
B. Selelo, P.O. Box 153, Mahalapye.	Restuarant	Tshikinyega	Central District Council	27.11.86
O. Kadimo, P.O. Box 168, Orapa.	Small General Trading	Letlhakane	Central District Council	27.11.86
O.S. Baoki, P.O. Box 625, Mahalapye.	Small General Trading	Madiba	Central District Council	27.11.86
N. Fulukani, P.O. Box 10014, Tatitown.	Small General Trading	Borolong Village Council	Central District	27.11.86
M. Ramotswiri, P.O. Box 117, Francistown.	Chibuku Bar and Depot	Tonota (Borotsi)	Central District Council	27.11.86
K. Ntwaetsile, P.O. Box 294, Kanye.	Small General Trading	Gamajaalela	Southern District Council	6.11.86
P. Tau, P.O. Box 206, Molapowabojwang, Via Lobatse.	Chibuku Bar	Molapowabojang	Souther District Council	6.11.86

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said council of his intention to oppose such application and state the grounds upon which his objection is based.

First Publication

Hawkers/Street Vendors Licences

Notice is hereby given that the undersigned intends to apply for a Licence in terms of Bye-Laws 5 and 8 of Gaborone Hawking and Street Vending Bye-Laws, 1977 to obtain a Hawkers Licence/Street Vendor's Licence in respect of the following areas within the Gaborone Township —

<i>Name and Address</i>	<i>Type of Licence</i>	<i>Place(s) where Licences applied for</i>	<i>Council</i>	<i>Date of hearing</i>
D. Kgosiengwe, P.O. Box 30264, Tlokweng.	Street Vendor	Lesetlheng Ward	South East District Council	11.11.86
T. Chaka, P.O. Box 41, Ramotswa.	Street Vendor	Taung Village	South East District Council	11.11.86
B. Setshogo, P.O. Box 43, Gaborone.	Street Vendor	Lesunyaneng Ward Tlokweng	South East District Council	11.11.86
D. Rakgomo, P.O. Box 20, Ramotswa.	Street Vendor	Goo-Moeng	South East District Council	11.11.86
E. Matshidiso, P.O. Box 3, Ramotswa.	Street Vendor	Mamenwe Lands	South East District Council	11.11.86
B.A. Popo, P.O. Box 1, Ramotswa.	Street Vendor	Maipeing Ward	South East District Council	11.11.86

Any person objecting to the grant of such certificate should, within 7 days of the second publication of this notice, give notice in writing to the said council of his intention to oppose such application and state the grounds upon which his objection is based.

First Publication

Central Tender Board — Tender No. 8/5/7/86—87

BOTSWANA NATIONAL MAPPING PROGRAMME LINE MAPPING — LOBATSE AND MAHALAPYE

TENDERS ARE INVITED for the provision of line mapping in Lobatse and Mahalapye to the following specifications:-

- (i) Lobatse: a) 1/10 000 scale \times 2 m contours of an area approximately 84 sq. kilometres in extent and,
b) 1/2500 scale \times 1 m contours of an area common to (i) (a) approximately 24 square kilometres in extent and,
- (ii) Mahalapye: 1/5000 scale \times 2 m contours of an area approximately 24 square kilometres in extent.

Tender documents giving conditions of Contract, specification for line mapping, a schedule to the specification and relevant maps, are available on request from the Director of Surveys and Lands, Private Bag 0037, Gaborone.

The tender will involve the provision of:-

- (i) Air photography (Lobatse area only — Mahalapye is covered by 1/15000 flown in June 1986);
- (ii) Ground control;
- (iii) Aerial triangulation;
- (vi) Photogrammetric compilation;
- (v) Final sheet preparation.

The tender closes at 0900 hours on Friday 5th December, 1986 and any tender received after that time and date will not be considered nor will any telephonic or telexed submission.

Tenders, in duplicate, should be submitted to the Secretary, Central Tender Board, Private Bag 0058, Gaborone (or by hand to the Secretary, Ministry of Finance Building, Gaborone) in a plain sealed envelope marked "TB 8/5/7/86—87—Line Mapping" to arrive not later than 0900 hours on 5th December, 1986.

The lowest or any tender will not necessarily be accepted.

K.K. SEMELAMELA,
Secretary, Central Tender Board.

Central District Council — Tender Notice No. CDC/CTU/18/86

ONE FIVE TON vehicle with drop side body and single rear wheels. Two spare wheels must be supplied if sizes differ front with rear. The vehicle to be in white colour only and equipped with a 200 litres reserve tank, also a 20 litres water tank to be fitted to the left hand chassis frame. Seat belts are also required to be fitted.

One Land Cruiser vehicle converted to a Station Wagon. Fitted with seat belts, front bush guard and in white colour only.

One Standard 4 \times 2 Hi-Lux fitted with extra fuel tank, canopy, and in white colour only.

All tenders must be accompanied with all relevant technical literature for the vehicle tendered for.

Firm delivery dates for the vehicle tendered for must be clearly stated.

Council does not bind itself to accept the lowest or any tender, nor does it bind itself to supply reason for its rejection for all or any tender.

Tender for consideration to arrive at the Council Secretary's Office not later than 9.00 hours on the 18th November, 1986.

Tender in plain envelope clearly marked with the number "CDC/CTU/18/86" and addressed to Council Secretary, Central District Council, Private Bag 001, Serowe.

S.M. MOTSE,
Council Secretary.

Central District Council — Tender No. CDC/Stores 4/86**SUPPLY OF DEXION SHELIVING**

CENTRAL DISTRICT COUNCIL invites tenders for the supply and delivery to Serowe Main Stores Shelves of the following descriptions.

20 No. Steel Shelving

Size — 2, 2 m ankle high X steel shelf of 91 cm X 50 cm.

4 ankles and 6 shelves to one complete shelving unit.

Tenderers must indicate the period of delivery from the date or receipt of an official order. All tenders in plain envelope clearly marked "Tender No. CDC/Stores 4/86—Supply of Shelving" should be addressed to the Council Secretary, Central District Council, Private Bag 001, Serowe. All tenders must reach Council Secretary's office before 9.00 a.m. of the 18th November, 1986.

Central District Council reserves the right to accept or reject any tender received.

S.M. MOTSE,
Council Secretary.

First Publication

Gaborone City Council — Tender No. 34/86

TENDERS ARE INVITED by Gaborone City Council for the supply of Protective Clothing.

Details of the items on tender are obtainable from Room 19 Council Depot, Plot 1224, Industrial Area during normal working hours or on application to City Clerk, Private Bag 0089, Gaborone.

Tenders in a plain sealed envelope clearly marked "Tender No. 34/86" shall be sent to reach the City Clerk, Private Bag 0089, Gaborone not later than 4 p.m. on the 6th November, 1986. The tenders shall be opened the same day at 4.00 p.m. in the Council Chamber in the presence of any tenderer who may wish to be present.

Gaborone City Council does not bind itself to accept the lowest or any tender, nor to assign any reason thereof.

B.B. MATHEO,
for City Clerk.

First Publication

Agencies Licence

NOTICE IS HEREBY given that Botton Enterprises (Pty) Ltd., intends to apply for an Agent Licence to trade in the following goods: building material, tools, tractor spares, machinery, fittings and fixtures, electrical equipment, foodstuffs clothing.

Represented by/Represents: BDS.

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

BDS, P.O. Box 106, GABORONE.

First Publication

Agencies Licence

NOTICE IS HEREBY given that Kalahari Sales (Pty) Ltd., intends to apply for an Importers and Exporters Licence to trade in the following goods: stationery, insecticides, foodstuffs and sweets.

Represented by/Represents: Kalahari Sales (Pty) Ltd.

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

KALAHARI, SALES (PTY) LTD., P.O. Box 138, FRANCISTOWN.

First Publication

Agencies Licence

NOTICE IS HEREBY given that Marie Smit intends to apply for an Agency Licence to trade in the following goods: the training of local citizens to qualify for a certificate in beauty consultancy using Reeva Beauty Products.

Represented by/Represents: N/A

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

MARIE SMIT, Unit 37, Red Square, GABORONE.

First Publication

External Representative Licence

NOTICE IS HEREBY given that Westhynd Security (Pty) Limited intends to apply for an External Representative Licence to trade in the following goods: general goods including fire extinguishers and alarms.

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

KIRBY, HELFER & COLLINS, *Applicant's Attorneys*, Co-Operative House, P.O. Boxes 882 and 170, GABORONE.

First Publication

First and Final Liquidation and Distribution Account

IN THE ESTATE of the late Louisa Christina Theron who died in Zimbabwe on 29th May, 1985.

THE FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT in the above Estate will lie for inspection at the Chambers of the Master of the High Court at Lobatse and a copy at the Office of the District Commissioner at Francistown wherein the deceased was resident, for a period of Twenty-One (21) days from the date of publication hereof.

DATED at Gaborone this 2nd day of October, 1986.

KIRBY, HELFER & COLLINS, Co-Operative House, P.O. Boxes 882 and 170, GABORONE.

First Publication

Notice of Loss or Destruction of Insurance Policy

NOTICE IS HEREBY given that Policy No. 1003494 on the life and property of: Mr Johannes Phuthego Sono has been reported to be lost or destroyed and any person in possession of policy, or claiming to have any interest in such policy, should communicate immediately by registered post with the Insurer. Failing any such communication, a certified copy of the policy (which shall be the sole evidence of the contract made by the policy) will be issued to the owner.

IGI BOTSWANA LIMITED, P.O. Box 715, GABORONE.

Notice of Loss or Destruction of Insurance Policy

NOTICE IS HEREBY given that Policy No. 292800 on the life and property of: Sesha Modise has been reported to be lost or destroyed and any person in possession of policy, or claiming to have any interest in such policy, should communicate immediately by registered post with the Insurer. Failing any such communication, a certified copy of the policy (which shall be the sole evidence of the contract made by the policy) will be issued to the owner.

IGI BOTSWANA LIMITED, P.O. Box 715, GABORONE.

Transfer

A transfer of premises from Plot No. 306 to Plot No. 6137 and that the Francistown Town Council has determined that the application shall be heard by the Licensing Authority on 13th November, 1986.

MUKANI SPORTS & MUSICAL SUPPLIES (PTY) LTD, Acumen (Pty) Ltd., Private Bag 57, FRANCISTOWN.

A transfer of General Trading Licence in respect of the premises situated at Plot No. 10213 Extension 16 Broadhurst, Gaborone to Lot 17533 Tsholofelo, Gaborone and that the Gaborone City Council Licensing Advisory Committee has determined that the application shall be heard by the Licensing Authority on 19th November, 1986.

FASTLINES (PROPRIETARY) LIMITED, c/o Premier Secretarial & Business Services (Proprietary) Limited, P.O. Box 1860, GABORONE.

A transfer of a Wholesale Licence in respect of the premises situated at Lot No. 1228 to Lot No. 6045 Gaborone and that the Gaborone City Council Licensing Advisory Committee has determined that the application shall be heard by the Licensing Authority on 19th November, 1986.

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

SHELL OIL BOTSWANA, Richard A. Lyons, Attorneys for the Parties, P.O. Box 160, GABORONE.

NOTICE IS HEREBY given that the undersigned intends to apply for a certificate in terms of section 10 of the Trading Act, 1966 (Number 6 of 1966) to obtain:

A transfer of a General Trading Licence in respect of the premises at Plot No. 3228, Industrial Site, Selebi-Phikwe to Shop 4, Plot No. 2668, Tshekedi Road, Selebi-Phikwe, and that the Selebi-Phikwe Town Council has determined that the application shall be heard by the Licensing Authority on 16th October, 1986.

VANDENBERG'S (PROPRIETARY) LIMITED, P.O. Box 199, SELEBI-PHIKWE.

A transfer of a General Trading Licence from Lot 1278 Extension 6 to Lot 14450 Gaborone West and that the Gaborone City Council has determined that the application shall be heard by the Licensing Authority on 19th November, 1986.

DIESEL ELECTRIC (PTY) LIMITED, c/o Armstrong's, Applicant's Attorneys, 3rd Floor, Standard House, The Mall, P.O. Box 1368, GABORONE.

First Publication

Disposal

NOTICE IS HEREBY given in terms of section 28 (1) (b) of the Trading Act, Cap. 43:02 that I, Mogotsi Chaoka have disposed of my entire interest in Gasumana Small General Trading carrying on the business of Gasumana Fresh Produce and Gasumana Restaurant at Kanye to Gasumana Enterprises (Proprietary) Limited, who will, continue to trade at the same name and under the same style of Gasumana Enterprises (Proprietary) Limited.

Any person objecting to grant of such certificate should within 7 days of second publication of this notice give notice in writing to the National Licensing Authority Board, Private Bag 004, Gaborone of his intention to oppose such application and state the grounds upon which objection is based.

MOGOTSI CHAOKA, c/o Premier Secretarial & Business Services (Proprietary) Limited, P.O. Box 1860, GABORONE.

First Publication

Disposal

NOTICE IS HEREBY given in terms of section 28 (1) (b) of the Trading Act, Cap. 43:02 that We Mafulo (Pty) Ltd., have disposed of our entire interest in General Trading and Fresh Produce Licence held in respect of Lot 10212/13, Extension 16, to Itireleng Investments (Pty) Ltd to trade in the same style under a name of their choice.

MAFULO (PTY) LTD., P.O. Box 40953, GABORONE.

First Publication

Disposal

NOTICE IS HEREBY given in terms of section 28 (1) (b) of the Trading Act, Cap. 43:02 that I, Isaac David have disposed of my entire business of Supermarket at the premises situated at (Boseja) Mochudi to M.B. Enterprises (Pty) Ltd who will, continue to trade under the same style and same style.

ISAAC DAVIDS P.O. Box 21, MOCHUDI.

First Publication

Disposal

NOTICE IS HEREBY given in terms of section 28 (1) (b) of the Trading Act, Cap. 43:02 that We J.E. Palmer & Co. have disposed of our entire interest in Letlhakane Store carrying on the business of General Trading to Michael Gasebomo Phiri of Serowe who will, continue to trade at the different address and under the same style of General Trading.

J.E. PALMER & Co. (Pty) Ltd., Private Bag 33, SELEBI-PHIKWE.

First Publication

**IN THE HIGH COURT OF THE FIRST CLASS FOR THE REPUBLIC OF BOTSWANA
HELD AT FRANCISTOWN**

Case No. C.T. (F) 62/85

In the matter between:

**FISHER MOTOR ENGINEERING (BOTSWANA)
(PROPRIETARY) LIMITED**

Plaintiff

and

B.K. MMOLAINYANA

Defendant

NOTICE OF SALE IN EXECUTION

TAKE NOTICE that in pursuance of a writ of execution issued out of the Court in the above matter, the Court Bailiff. Maun District will sell by public auction the following:-

4 pieces of soda
1 dining table
6 chairs
1 big side board
1 small coffee table
1 display

1 big Electric Fridge
1 gas stove
1 kitchen side board
1 double bed and mattress
1 big wardrobe

The sale will take place at Maun Magistrate Court on the 28th day of November, 1986 at 10.00 a.m.
TERMS: Cash or bank guaranteed cheques.

DATED at Francistown this 9th day of October, 1986.

L.S. WALIA, *Plaintiff's Attorney*, P.O. Box 82, FRANCISTOWN.

Bill No. 19 of 1986

BOTSWANA RAILWAYS BILL, 1986

(Published on 24th October, 1986)

MEMORANDUM

A draft of the above Bill, which it is proposed to present to the National Assembly, is set out below.

2. The object of the Bill is to establish a Railways Organisation which though a Government Department will nevertheless be managed and operated on commercial basis like a parastatal. Consequently, the employees of the Organisation will be public officers employed and controlled directly by the Organisation with their terms and conditions determined by the Board. The Organisation will be solely responsible for providing railways services on take-over from the National Railways of Zimbabwe.

3. Part I of the Bill contains provisions relating to preliminary matters such as title and the definition of certain words or expressions used in the Bill.

4. Part II provides for the establishment of the Organisation, its constitution and the composition of its Board of Management.

5. Part III deals with meetings and proceedings of the Organisation.

6. Part IV contains provisions relating to the appointment of officers, employees and agents of the Organisation.

7. Part V specifies the functions, powers and duties of the Organisation.

8. Part VI deals with the finances of the Organisation.

9. Part VII contains general provisions, such as the annual report to be submitted to the Minister, the mode of acquiring land for the Organisation, transitional provisions and the application of certain laws to Organisation.

C.W. BLACKBEARD,
*Minister of Works and
Communications.*

ARRANGEMENT OF SECTIONS

SECTION

PART I *Preliminary*

1. Short title
2. Interpretation

PART II *Establishment, Constitution and Membership of Organisation*

3. Establishment of Organisation and legal personality
4. Composition of Organisation
5. Resignation and removal from office
6. Tenure of office
7. Payment of members

PART III *Meetings and Proceedings of Board*

- 8. Meetings
- 9. Signification of documents

PART IV *Officers, Employees and Agents of Organisation*

- 10. Appointment of officers and employees
- 11. Delegation to committee

PART V *Functions, Powers and Duties of Organisation*

- 12. Functions and powers
- 13. Exclusive privilege of Organisation
- 14. Co-operation with authorities
- 15. Research and records
- 16. Power of Minister to give directions

PART VI *Finances*

- 17. Principles of financial operations
- 18. Fixing of tariffs
- 19. Borrowing powers
- 20. Vesting of property in Organisation
- 21. Accounts and audit

PART VII *General*

- 22. Annual report
- 23. Compulsory acquisition of land
- 24. Resettlement measures
- 25. Compensation for loss or damage
- 26. Power to call for information
- 27. Power to make bye-laws etc.
- 28. Protection from personal liability
- 29. Power to make regulations
- 30. Transitional provisions
- 31. Application of certain laws
- 32. Repeal of Act 12 of 1984

A BILL

— entitled —

An Act to provide for the establishment of an Organisation to be known as the Botswana Railways for the provision and operation of railway services and for matters connected therewith or incidental thereto

Date of Assent:

Date of Commencement:

ENACTED by the Parliament of Botswana.

PART I *Preliminary*

1. This Act may be cited as the Botswana Railways Act, 1986 and shall come into operation on such date as the Minister may, by notice published in the gazette, appoint.

Short title
and
commence-
ment
Interpreta-
tion

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

“contiguous railways” means any railway outside Botswana to which traffic can travel, to and from Botswana, in the same rail vehicle;

“financial year” means the year ending on the 31st March in each year;

“former owners” means National Railways of Zimbabwe or the Railways Unitary System Board of Management so far as they relate to assets within the borders of Botswana;

“private siding” means any line of railway which is connected to, or is contiguous with, Botswana Railways, other than such connections at the national borders, which has been constructed on land not owned or leased by Botswana Railways, for the specific purpose of facilitating rail transport access to premises or works situated on that land;

“railways services” means the conveyance of passengers, parcels and goods traffic by rail or road in accordance with the provisions of this Act;

“senior officer” means any employee of the Organisation who holds a position which is designated as such by the Board.

PART II *Establishment, Constitution and Membership of Organisation*

3. (1) There is hereby established a Commercial enterprise of the Government of Botswana to be known as the Botswana Railways Organisation (hereinafter referred to in this Act as “the Organisation”).

Establish-
ment of
Organisation
and
personality

(2) Notwithstanding any other law to the contrary, all legal proceedings by or against the Government of Botswana and related to any commercial activity for or by the Organisation may be instituted by or against the Botswana Railways Organisation in its own name as representing the Government of Botswana, and the necessary service of process therein may be effected on the General Manager of Botswana Railways appointed under section 10 of this Act.

(3) Sections 3 and 6 of the Civil Procedure (Actions by or against Government or Public Officers) Act shall not apply to actions by or against Botswana Railways.

Cap. 10:01

4. (1) There is hereby established a Board of Management (hereinafter referred to as “the Board”) which shall consist of the following members appointed by the Minister —

Composition
of
Organisation

(a) the Chairman;

(b) the General Manager of the Organisation appointed under section 10, ex officio; and

(c) not less than 5 or more than 9 other persons who in the opinion of the Minister have knowledge and experience likely to contribute to the successful management of the Organisation.

(2) A person shall not be competent to be appointed or to act as a member of the Board if —

- (a) he is a member of the National Assembly;
- (b) he is an employee of the Organisation;
- (c) he has been declared insolvent or bankrupt under any law in any country and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or
- (d) he has been convicted of any offence involving fraud.

Resignation
and removal
from office

5. (1) Any member of the Board, other than the General Manager, may resign his membership of the Board by notice in writing addressed to the Minister.

(2) A member of the Board may be removed from membership thereof if he —

- (a) ceases to hold the office by virtue of which he was appointed;
- (b) becomes of unsound mind;
- (c) is declared insolvent or bankrupt under any law in force in any country;
- (d) suspends payment of his debts or compounds with his creditors;
- (e) is absent from three consecutive meetings of the Board without such reason as appears to the Minister to be sufficient;
- (f) is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
- (h) in the case of a person possessed of professional qualifications, is disqualified or suspended, otherwise than at his own request, from practising his profession in Botswana or in any other country by order of any competent authority made in respect of him personally.

Tenure of
office

6. (1) A member of the Board, other than the Chairman and the General Manager, shall hold office for such period, not exceeding four years, as may be specified in the notice appointing him, and on the expiration of such period shall be eligible for reappointment:

Provided that the appointing members of the Board, the Minister shall specify such periods of appointment that the periods of appointment of not more than one-third of the members shall expire in any one year.

(2) The Chairman of the Board shall hold office as Chairman for a period of three years, and may be reappointed for any further periods of three years.

(3) The Board shall once in every year elect from among its members (other than the ex officio member) a Vice-Chairman who shall hold office as Vice-Chairman for a period of one year.

(4) Subject to the provisions of this Act, where any member of the Board is incapacitated by absence from Botswana, or illness or any other sufficient cause, from performing the duties of his office, the Minister shall appoint another person to hold office in his place until the incapacity of that person has terminated or until the term of office of such member expires, whichever first occurs.

7. The Board shall pay to the members thereof such remuneration, fees and allowances for expenses as may be approved by the Minister.

Payment of
members

PART III *Meetings and Proceedings of Board*

8. (1) The Board shall meet for the discharge of its functions at such times and places as the Chairman may appoint, so however that the Board shall meet at intervals not exceeding three months.

Meetings

(2) The Chairman or in his absence the Vice-Chairman may, and shall on the request in writing of not less than two members of the Board, call an extraordinary meeting of the Board at such time and place as he may determine.

(3) The Chairman or, in his absence, the Vice-Chairman shall preside at every meeting of the Board.

(4) In the absence of both the Chairman and the Vice-Chairman the members present shall elect one of their number to preside at the meeting.

(5) The quorum at any meeting of the Board shall be not less than one-half of the members of the Board:

Provided that the presence of the General Manager shall not count towards the constitution of the quorum.

(6) All questions proposed at a meeting of the Board shall be determined by a majority of the members present and voting, and, where the votes are equal, the Chairman or the person presiding shall have a second or a casting vote.

(7) Any member of the Board who has an interest, or whose spouse has an interest, in any company or undertaking with which the Board proposes to make a contract or, has an interest in any contract which the Board proposes to make, shall disclose the nature of his interest, and shall not vote or take any part in the proceedings of the Board relating to such contract.

(8) The General Manager shall, unless the Board in any particular instance decides otherwise, be entitled to attend the meetings of the Board and participate in the discussions without a vote.

(9) The Board may, and shall if the Minister thinks fit, request the attendance of any person to act as adviser at any meeting of the

Board, and that person while so attending shall have all the powers of a member except that he shall not vote on any question and his presence at the meeting shall not count towards the constitution of a quorum.

(10) The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of a member thereof.

(11) The Board may from time to time make standing orders providing for the regulation of —

- (a) the meetings of the Board;
- (b) the conduct of its business and other operations in carrying out its functions; and
- (c) the duties of its officers, employees and agents.

Signification
of
documents

9. All documents made by, and all decisions of, the Board may be signified under the hand of the Chairman of the Board, the General Manager or any member or senior officer of the Organisation generally or specially authorized in that behalf.

PART IV *Officers, Employees and Agents of Organisation*

Appointment
of officers
and
employees

10. (1) The Organisation shall have a General Manager who shall be appointed by the Minister upon such terms and conditions as may be determined by the Board.

(2) No person shall be appointed as the General Manager of the Organisation unless he is qualified by experience and training and has demonstrated that he is competent to manage the business of the Organisation.

(3) The General Manager of the Organisation shall, subject to such directions on matters of general policy as may be given by the Board, be charged with the direction of the Business and administration of the Organisation, and with the control of its employees.

(4) The General Manager may resign from office by notice in writing addressed to the Minister, and may be removed from office by the Minister.

(5) The General Manager may delegate to any senior officer of the Organisation the exercise of any powers which he is authorised to exercise under this Act.

(6) (a) The Board shall on consideration of the recommendations of the General Manager, from time to time determine the staff deemed necessary for the proper discharge of the functions of the Organisation and the terms and conditions of employment.

(b) The appointment, dismissal and discipline of all persons to or from positions designated by the Organisation as held by senior officers shall be made by the Board on consideration of recommendations of the General Manager.

(c) The appointment, dismissal and discipline of all other staff shall be made by the General Manager or such senior officers as he may delegate to perform this function.

(7) The Board may —

- (a) grant pensions, gratuities or retiring allowances to any officer or employee and may require such officer or employee to contribute to any pension or contributory scheme;
- (b) for the benefit of its officers and employees, establish and make contributions to any pension or superannuation fund or medical fund; and
- (c) from time to time appoint and employ upon such terms and conditions as it may think fit such agents and contractors as it may deem necessary.

(8) Public officers from other Ministries or Departments may be transferred or seconded to the Organisation or may with the consent of their supervisors otherwise give assistance thereto.

(9) Officers and employees of the Organisation shall in so far as it is not inconsistent with the provisions of this Act be public officers.

(10) Officers and employees of the Organisation may become members of an appropriate Trade Union.

11. The Board may, by resolution, delegate to any committee of the Organisation the exercise of any of the powers which the Organisation is authorised by this Act to exercise either generally or in any particular case.

Delegation
to
committee

PART V *Functions, Powers and Duties of Organisation*

12. (1) Subject to subsections (2) and (3), the functions of the Organisation shall be —

Functions
and powers

- (a) the provision of efficient and cost-effective railways transport over all its railways within the borders of Botswana;
- (b) the provision of an efficient and cost-effective system of public transport of goods and passengers by road in so far as the Minister considers it to be necessary or desirable;
- (c) the maintenance of existing connections with the adjoining railway systems of other railway administrations; and
- (d) to perform such other activities as may appear to the Organisation to be conducive and incidental to the attainment of all or any of its objectives under this Act or any other law.

(2) The Organisation shall have no direct responsibility for the maintenance of connections with, or responsibility for providing services to private sidings, other than duties and obligations arising from an agreement entered into with the owner of any such private siding.

(3) The Organisation shall not, without the authority of the Minister, construct a new line of railway at any point outside the recognised railway reservation not previously served by the Organisation, nor close and remove any existing line of railway other than a connection to a private siding.

(4) The Organisation shall have all powers necessary or convenient for the performance of its functions and duties and without prejudice to the generality thereof, shall have the power, on behalf of the Government, to —

- (a) acquire, maintain, improve and operate the railways at present existing within Botswana or outside Botswana as may be directed by the Government from time to time.
- (b) acquire, maintain and use any kind of property, right or privilege and dispose of the same to any person other than a member, officer or employee of the Organisation, or any agent or contractor, appointed or employed by the Organisation.
- (c) enter into agreements with the management of any railway administration on —
 - (i) common standards of design and maintenance of rolling stock which might be interchanged between the systems;
 - (ii) the establishment of tariffs for all classes of traffic interchanged between the system; and
 - (iii) the establishment of compatible systems of documentation and accountancy for all matters;
- (d) enter into such contracts as may be necessary for the performance of its functions and duties;
- (e) construct or cause to be constructed such works, houses, offices and other buildings and structures as it may deem necessary or expedient for the performance of its functions and duties;
- (f) purchase, take on lease or otherwise acquire or construct or cause to be constructed such tools, appliances, machinery, plant and equipment as it may deem necessary or expedient for the performance of its functions and duties;
- (g) sell, exchange, lease, dispose of, turn to account or otherwise deal with any of its assets or any part thereof, whether movable or immovable, not required for its purposes, provided that the Organisation may not sell any of its immovable property without the approval in writing of the Minister for the time being responsible for finance;
- (h) invest from time to time, in such manner as it may deem fit, such moneys held by it as may be surplus to its immediate requirements, subject to the approval in writing of the Minister for the time being responsible for finance;

- (i) insure with any company or person against any losses, damages, risks or liabilities which the Organisation may incur;
- (j) purchase or sell any materials and stores used in the performance of its functions; and
- (k) carry on any activity which is reasonably requisite or convenient for or in connection with the discharge of its functions under this Act.

13. (1) The Organisation shall have the exclusive privilege of operating railway services in Botswana.

Exclusive
privilege of
Organisation

(2) The Minister may, after consultation, with the Board permit, any person to construct a private siding.

14. In the discharge of its functions the Organisation shall co-operate with local and other public authorities, including departments and agencies of the Government, and shall consult with local authorities in matters of concern to the Organisation which affect their interests.

Co-operation
with
authorities

15. With a view to facilitating present or future research or planning the Organisation shall keep full and accurate records of all its operations and shall have power to engage in research and to assist others to engage in research in respect of any matter relating to its functions, and to publish such records and the results of any such research.

Research
and
records

16. The Minister may, after consultation with the Board, give to the Organisation such directions of a general or specific character as to the exercise and performance of its powers in fulfilling its functions as are necessary as a matter of public policy and as are not inconsistent with this Act or with the contractual or other legal obligations of the Organisation, and the Organisation shall give effect to any such direction.

Power of
Minister
to give
directions

PART VI *Finance*

17. (1) The Organisation shall conduct its affairs on sound commercial lines and, in particular, so carry out its functions under this Act and so prescribe the charges payable in respect of the provision by the Organisation of services for the conveyance of goods and passengers as to ensure that its revenues are sufficient to produce on the fair value of its assets a reasonable return measured by taking its net operating income as a percentage of the fair value of its fixed assets in operation plus an appropriate allowance for its working capital.

Principles
of
financial
operations

(2) For the purposes of this section "net operating income" means the amount of income remaining after subtracting from total operating revenues all charges which in accordance with generally acceptable accounting principles are chargeable to revenue accounts, including appropriate provisions for depreciation of assets, adequate maintenance, but before deducting

interest and other charges on borrowing or taking into account non-operating income expenditure.

(3) In determining what constitutes a reasonable return, all pertinent economic and financial considerations shall be taken into account, which shall include but not be limited to the need for net operating income in an amount sufficient —

- (a) to meet interest payments on borrowings;
- (b) to provide for repayments to be made each year in respect of loans incurred by the Organisation to the extent to which such repayments exceed the year's provision for depreciation charged to revenue accounts;
- (c) to provide a reasonable proportion of the funds needed for expanding the Organisation's activities and improving its services; and
- (d) to provide reserves for replacement, expansion or other purposes if and to the extent to which the Organisation deems it necessary to establish such reserves;

Fixing of
tariffs and
surplus funds

18. (1) The Board shall, with the approval of the Minister, which approval shall not unreasonably be withheld, prescribe the tariffs at which it provides services for the conveyance of goods and passengers so as to ensure that it is able to comply with the provisions of section 17.

(2) The Board may prescribe different tariffs or methods of charge for different classes or categories of service and for different areas or places.

(3) Notwithstanding subsection (1), the Organisation may, where special circumstances exist and with the consent of the Minister which consent shall not be unreasonably withheld, enter into an agreement with any person providing for special tariffs on a commercial basis in respect of that agreement.

(4) Any surplus funds of the Organisation shall be invested or otherwise dealt with in accordance with the directives given by the Minister for the time being responsible for finance.

Borrowing
powers

19. (1) In order to enable the Organisation to discharge its functions under this Act and to meet its obligations it may borrow, on such terms and in such currencies as may be agreed between it and any lender, such sums as it may require, subject to the approval of the Minister for the time being responsible for finance.

(2) The Organisation may charge its assets, undertakings and revenues with the repayment of any money borrowed together with interest thereon and may issue debentures, bonds or other securities in order to secure the repayment of any money borrowed together with interest thereon and may do all other things necessary in connection with or incidental to such borrowings as are authorised by this section, subject to the approval of the Minister for the time being responsible for finance.

20. (1) Any properties, assets, rights, debts, liabilities and obligations of the Government or former owners and the benefit and burden of all contracts made by or on behalf of the Government or the former owners which are part of or concern or relate to the railways may, with the consent of the Board, be transferred to and vest in the Organisation as hereinafter provided on terms and conditions agreed to by the Organisation and any other party.

(2) The Minister may from time to time, by notice published in the Gazette, designate for the purposes of this section properties, assets, rights, debts, liabilities and obligations of the Government or former owners and contracts made by or on behalf of the Government or former owners which are part of, concern or relate to the railways, and as from the date specified in any such designation the properties, assets, rights debts, liabilities and obligations and the benefit and burden of the contracts so designated shall vest in the Organisation.

(3) (a) For the purposes of this subsection "the appropriate date" means, in respect of any loan agreement made between the Government and any person whereby money was or is to be borrowed by the Government and used for or in connection with the railways, the date of the vesting of such loan agreement in the Organisation by virtue of the foregoing provisions of this section.

(b) The Organisation shall pay to the Ministry or Department concerned, in such manner and on such date or dates as the Minister may, with the concurrence of the Organisation and the Minister for the time being responsible for finance, from time to time specify, any amount expended or advanced by any Ministry or Department on or in connection with the railways comprising —

- (i) all amounts repaid in respect of capital or interest by the Government to any person before the appropriate date under any loan agreement to which paragraph (a) applies;
- (ii) all amounts disbursed or to be disbursed by any Ministry or Department in repayment of any other loan raised or to be raised by any Ministry or Department and interest thereon to the extent to which such loan has been or will be applied to the railways which, before the date specified in a designation pursuant to subsection (2), had not been off-set by an amount or amounts credited to the consolidated Fund for that purpose;
- (iii) amounts equal to the outstanding debit balance of any advances made by any Ministry or Department and all costs incurred by that Ministry or Department as a result of making such advances;

- (iv) any other amounts paid or to be paid by any Ministry or Department which, before the date specified in a designation pursuant to subsection (2), had not been off-set by an amount or amounts credited to the Consolidated Fund for the purpose.

(4) If, within one month from the date specified by the Minister under subsection (3) (b) for the payment of any amount payable by the Organisation to any Ministry or Department under that subsection, the Organisation fails to pay such amount, it shall pay interest thereon as from the date specified as aforesaid at such rate or rates as the Minister may, with the concurrence of the Minister for the time being responsible for finance, from time to time determine.

Accounts
and audit

21, (1) The Organisation shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts showing in detail the assets and liabilities (real and contingent) and income and expenditure of the Organisation in a form which shall conform with the best commercial accounting standards applicable to the provision of services.

(2) The accounts of the Organisation in respect of each financial year shall, within 4 months or such extended time after the end thereof as the Minister may direct, be audited by the Auditor-General or any auditor appointed by the Auditor-General (hereinafter referred to as "appointed auditor").

(3) The Auditor-General or any appointed auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which he deems it pertinent to comment, whether or not —

- (a) he has received all the information and explanations which, to the best of his knowledge and belief, were necessary for the performance of his duties as auditor;
- (b) the accounts and related records of the Organisation have been properly kept;
- (c) the Organisation has complied with all the financial provisions of this Act with which it is the duty of the Organisation to comply; and
- (d) the statement of accounts prepared by the Organisation was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Organisation.

(4) The report of the Auditor-General or the appointed auditor and a copy of the audited accounts shall, within 7 days of the completion thereof, be forwarded to the Minister and to the Organisation.

(5) The Minister shall, within 30 days of receiving the report

and a copy of the audited accounts, lay such report and accounts before the National Assembly.

PART VII *General*

22. (1) The Board shall, within a period of 6 months after the end of the financial year or within such longer period as the Minister may approve, submit to the Minister a comprehensive report on its operations during such year together with the auditors' report and the audited accounts as provided for in section 21, and the Board shall publish them in such manner as the Minister may specify.

Annual
report

(2) The Minister shall, within 30 days of his receiving the Board's report, lay such report before the National Assembly.

23. For the purposes of any written law for the time being in force relating to the compulsory acquisition of land for public purposes, the functions and operations of the Organisation shall be deemed to be public purposes.

Compulsory
acquisition
of land

24. If the operations of the Organisation make necessary the resettlement of any person dwelling upon any communally owned land, the terms of such resettlement shall be subject to the agreement of the Government and of the local authority of the area concerned.

Resettlement
measures

25. (1) In the exercise of its powers under this Act in relation to the execution of works or interference with property the Organisation shall cause as little detriment and inconvenience and do as little damage as possible, and shall make full compensation to all local and other authorities and other persons who have sustained loss or damage for all loss or damage sustained by them by reason or in consequence of the exercise of such powers and, in default of agreement between the parties, the amount and application of such compensation shall be determined by arbitration in accordance with the provisions of the Arbitration Act.

Compensa-
tion for
loss or
damage

(2) For the purpose of such arbitration the parties shall be deemed to be parties to a submission in which the reference is to two arbitrators.

Cap. 06:01

26. The Minister may, for purposes associated with the administration of this Act, require the Board to provide him with estimates of the Organisation's future revenue and expenditure, and with such other information relating to its activities and operations, including books of accounts, records, documents and agreements relating to the activities of the Organisation.

Power to
call for
information

27. The Board may make bye-laws or rules for any purpose connected with its powers, functions and duties under this Act and may impose penalties for breach of any such bye-laws or rules. Such bye-laws or rules shall come into force upon approval by the Minister.

Power to
make
bye-laws

28. No matter or thing done by any member of the Organisation or by any officer or employee of the Organisation shall, if the matter or thing is done *bona fide* for the purpose of executing any provision of this Act, render such person or any person acting by his direction personally liable to any action, claim or demand whatsoever.

Protection
from
personal
liability

29. The Minister may, after consultation with the Board, make regulations providing for any matter which under this Act is to be provided for by regulation or which otherwise relates to the administration of the Organisation.

Power to
make
regulations

30. (1) Unless the contrary intention is indicated by the Board, every member of the staff of the Department of Railways shall be deemed to have been duly appointed under this Act.

Transitional
provisions

(2) Nothing in this Act shall be taken to effect any alteration in the terms of a contract subsisting immediately before the commencement of this Act or to authorise the making of any such alteration without the consent in writing of all parties bound by the contract.

31. (1) Any written laws relating to railways shall, to the extent that they are not inconsistent with the provisions of this Act, continue to be in force.

Applications
of certain
laws

(2) Any powers contained in any written law which were exercisable by any predecessor railway authority or employees of such railway authority shall be exercisable by the Organisation and its employees and any reference to any predecessor railway authority in any such written law shall be deemed to be reference to Botswana Railways.

32. The Botswana Railways Act, 1984, is hereby repealed.

Repeal of
Act 12
of 1984

Bill No. 20 of 1986

FINANCIAL INSTITUTIONS BILL, 1986

(Published on 24th October, 1986)

MEMORANDUM

A draft of the above Bill which it is proposed to present to the National Assembly is set out below.

2. The Financial Institutions Act was enacted in 1975 and minor amendments were made in 1980. Since that time, Botswana's financial sector has experienced considerable growth and change. As a result, a comprehensive review of the Financial Institutions Act is required. The intent of the amendments incorporated in the new Act is primarily threefold. The first is to adapt the Financial Institutions Act to Botswana's changing financial sector. The second is to strengthen the sections concerning the prudential supervision of financial institutions both to help ensure a stronger financial sector and to bring it into line with modern international standards of bank supervision. The final intent is to improve and/or tighten language that has either become outdated or needs expanding. The amendments to many sections are both minor and technical. Amendments to four sections, however, will have a significant impact either immediately or in the near future.

3. The definition of "banking business" as given in section 2 has been expanded in the light of past concerns regarding the applicability of so called "consultants" to financial legislation and supervision. This expanded definition will allow the Bank of Botswana to have a broader base in judging if consultants or similar organizations are doing banking business and thus should come under the requirements of the Financial Institutions Act.

4. Also within section 2, the definition of "financial institution" has been expanded to include institutions which are not commercial banks. This is because some institutions presently licensed under the FIA are not commercial and licensing of similar institutions will, in all likelihood, be required in the future. The expanded definition allows the requirements under the Financial Institutions Act to be varied to suit the type of financial institutions for which they are intended. This is important as certain requirements do not apply to the same extent or degree to credit institutions as they would to commercial banks.

5. The new section 17 expands the former section 56, dealing with appeals from decisions of the Bank of Botswana relating to the grant, revocation or alteration of licences, to ensure a quick and final resolution of the issue.

6. Section 19 and 20 have been amended to provide a modernized and more effective requirement for capital adequacy. Ensuring that financial institutions are sufficiently capitalized is a cornerstone of prudential supervision and is obviously intended to provide protection for the depositor. The present requirement is seriously flawed in that just part of a financial institution's capital and reserves were being compared to only a portion of its

total liabilities. Thus, the requirement did not account for all the risk the financial institution was incurring. The amended requirement measures a broader base of capital and reserves to total assets. This ratio has been widely accepted internationally as the most useful measurement of capital adequacy. The new requirement is not intended to prompt significant and immediate capital increases by the financial institutions, but it will provide the prudent discipline of ensuring that activities (assets) do not grow at a significantly faster pace than the capital and reserves needed to support them.

7. The other significant amendment is to section 24 (1) which concerns the limitations, without prior Bank of Botswana approval, on credit facilities extended to one borrower or related borrowers. The purpose of such limitations is to prevent large asset concentrations which through default, etc. can imperil an institution's solvency. The accumulation of such asset concentrations has been a major cause of banking failures/crises in many countries — especially in recent years. The present section 24 (1) is flawed in that it exempts many, if not most, large credit facilities from the intended limitations. Specifically any credit facility guaranteed by persons considered credit worthy in the opinion of the financial institution is exempted from the limitations of section 24 (1). As a result, financial institutions have been able to, in some cases, acquire, over a period of time, significant asset concentrations without the approval and/or awareness of the Bank of Botswana.

8. The proposed amendment will significantly strengthen the intent of section 26 (1) by exempting only government or government guaranteed obligations. In turn, the limit for fully secured credit facilities (without prior Bank of Botswana approval) is increased to 25%. For impeccable security, such as a major bank guarantee, the limit is amended to 50%. Thus, the removal of most exemptions, plus the revised set of limits, will provide a meaningful safeguard against potentially hazardous asset concentrations while providing reasonable flexibility for the financial institutions to exercise their own credit judgements. Like the amendments to capital adequacy, this proposed change is largely in accordance with modern day international supervisory guidelines.

P.S. MMUSI,
*Vice-President and Minister of
Finance and Development Planning.*

ARRANGEMENT OF SECTIONS

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**An Act to provide for the licensing, control and regulation of
Financial Institutions, and for matters incidental thereto**

Date of Assent:

Date of Commencement:

ENACTED by the Parliament of Botswana.

PART I. Preliminary

Short title
and
commence-
ment

1. This Act may be cited as the Financial Institutions Act, 1986, and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint:

Provided that the Minister may, by the same or different notices, appoint different dates for different provisions of the Act to come into operation.

Inter-
pretation

2. In this Act, unless the context otherwise requires —
“affiliate”, in respect of any financial institution, means any company, association, syndicate, partnership or other body of persons, corporate or unincorporate, in which 20% or more of any class of voting shares or other voting participation is directly or indirectly owned or controlled by such financial institution, or is held by it with power to vote;
“bank” means any financial institution whose business includes the acceptance of deposits of money transferrable by cheque or other means of third party transfer;
“banking business” means the business of receiving funds from the public or from members thereof, whether within or without Botswana, through the acceptance of money deposits payable upon demand or after a fixed period or after notice, or any similar operation through the sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or in part, whether within or without Botswana, for loans, advances, investments or any other operation authorized either by law or by customary

banking practice, for the account and at the risk of the persons doing such business, and any other activity recognised by the Central Bank as customary banking practice which a financial institution engaging in such activities may additionally be authorised to do by the Central Bank;

“Central Bank” means the Bank of Botswana established under the Bank of Botswana Act, 1975;

“credit institution” means a financial institution other than a bank;

“director” means —

- (i) in relation to a local financial institution any person by whatever title he may be referred to, carrying out or empowered to carry out substantially the same functions in relation to the direction of the institution as those carried out by a director of a company under the Companies Act; and
- (ii) in relation to a foreign financial institution, both a director as defined above and the person in Botswana responsible for carrying out the functions of such institution who shall be designated or otherwise act as the principal authorised agent in accordance with subsection (2) of section 11.

Cap. 42:01

“financial institution” means an institution doing banking business and for the purposes of this Act, unless otherwise specified, all offices and branches of a financial institution in Botswana shall be deemed to constitute a single financial institution;

“foreign financial institution” means a financial institution incorporated abroad;

“incorporated” in relation to a local financial institution means registered under the Companies Act or formed in pursuance to some other law, Letters Patent or Royal Charter;

“licensed” means licensed under this Act;

“local financial institution” means a financial institution incorporated under the laws of Botswana;

“place of business” means any branch, office or agency (including a mobile agency) of a financial institution in Botswana open to the public;

“principal officer” means the manager or other person in Botswana, by whatever title he may be referred to, chiefly responsible for the management of the affairs of a financial institution;

“unsecured”, in relation to loans, advances or credit facilities, means loans, advances or credit facilities granted without security; or, in the case of loans, advances or credit facilities granted against security, any part of such loans, advances or credit facilities which at any given time exceeds the market

value of the assets comprising the security given, or which exceeds the valuation approved by the Central Bank whenever it deems that no market value exists for such assets.

Act not
apply

3. (1) The provisions of this Act shall not apply to —
- (a) the Central Bank, except insofar as this Act confers upon the Central Bank powers to perform functions set forth herein;
 - (b) the National Development Bank established under the National Development Bank Act;
 - (c) building societies registered under the Building Societies Act;
 - (d) co-operative societies registered under the Co-operative Societies Act,
 - (e) the Botswana Savings Bank established under the Post Office Savings Bank and Savings Certificates Act;
 - (f) insurers registered under the Insurance Act 1979;
 - (g) any international financial organization of which the Government is a member:

Cap. 74:05

Cap. 42:02

Cap. 42:03

Cap. 56:03

Act 12 of
1979

Provided that the Minister, acting in accordance with the advice of the Central Bank, may, by order published in the Gazette, make applicable to any of the aforesaid any of the provisions of this Act under such conditions and for such period as may be prescribed.

(2) The Minister, after consultation with the Central Bank, may by regulation add to the list of institutions set forth in subsection (1) any other institution, corporation, or body —

- (a) which is established by Act of Parliament; and
- (b) whose operations include any aspect of banking business.

Suspension
and
exemption

4. (1) The Minister may, acting in accordance with the advice of the Central Bank, by order published in the Gazette, temporarily suspend the application of any provision of this Act in respect of any person for such period, not exceeding 90 days, and under such terms and conditions as may be prescribed whenever such suspension is, in his opinion, in the public interest:

Provided that —

- (i) any period prescribed hereunder may be extended from time to time by resolution of the National Assembly for such further period as may be specified in such resolution; and
- (ii) no suspension under this subsection shall exceed 12 months in total duration.

(2) The Minister may, acting in accordance with the advice of the Central Bank, exempt in writing any person from the provisions of section 18 for such period and under such conditions as he may determine, whenever such exemption is, in his opinion, in the public interest.

(3) The Minister may acting in accordance with the advice of the Central Bank, in writing, exempt any foreign financial institution not carrying on banking business in Botswana from all or any of the provisions of this Act, for such period and under such conditions as he may determine whenever such exemption is, in his opinion, in the public interest.

PART II. *Licences*

5. (1) Except under the authority and in accordance with the terms and conditions of a valid licence —

Prohibition
against
transaction
of business
by unlicensed
person or
institution

(a) no person shall seek deposits of money in Botswana either by advertising or soliciting;

(b) no person shall transact any banking business in Botswana;

(c) no local financial institution shall transact any business outside Botswana; and

(d) no foreign financial institution shall transact any business in Botswana.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine of P1 000 in respect of each day on which the contravention continues.

6. (1) Where the Central Bank has reason to believe that a person is advertising for or soliciting deposits of money or is transacting business in contravention of section 5 or acting as an agent within the meaning of section 18 without being validly licensed therefor, it may call for and inspect, or cause to be inspected, all books, minutes, accounts, cash, securities, records, vouchers and other documents in such person's possession or custody in order to ascertain whether such person is so advertising for or soliciting deposits or is transacting banking business or so acting.

Investigation
of person
suspected
of carrying
on banking
business

(2) Any person who, having been so called upon by the Central Bank under subsection (1), fails or refuses to make available for inspection all such books, minutes, accounts, cash, securities, records, vouchers and other documents, shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for one year.

7. (1) Where any person advertises for or solicits, or transacts business in contravention of section 5 or acts as an agent in contravention of section 18, and such person holds moneys or other property obtained by transacting such business or so acting whilst not licensed so to do, the Central Bank may make application to the High Court for directions in respect of the disposition of such moneys or property.

Repayment
of monies or
securities
by unlicensed
institution

(2) The provisions of subsection (1) shall be in addition to and not in derogation of any criminal liability of such person in accordance with this Act or any other written law.

(3) In giving directions under subsection (1), the High Court

shall give such directions as will, so far as is possible, ensure the speedy and efficient return of such money or property to the depositor or owner thereof and may, without prejudice to the generality of the foregoing, direct that such monies or property be transferred to the custody of the Central Bank for distribution to the depositors or owners concerned.

Use of
certain
words

8. (1) (a) No person other than a licensed financial institution or an institution or person referred to in section 3 shall, without the prior written consent of the Central Bank, use the words "finance", "loan", "credit", "savings" or "trust", or any of their derivatives in any language, or any other word indicating or implying the doing of banking business, in the name, description of title under which such person is doing business in Botswana; or make any representation to such effect in any billhead, letter, paper, notice or advertisement.

(b) No person other than a licensed bank or an institution or person referred to in section 3 shall, without the prior written consent of the Central Bank, use the word "bank" or any of its derivatives in any language, or any other word indicating the doing of banking business, in the name, description or title under which such person is doing business in Botswana; or make any representation to such effect in any billhead, letter, paper, notice or advertisement.

(c) Every licensed bank shall use the name description or title under which it is licensed, and in every billhead, letter, paper, notice or advertisement, such words as the Central Bank is satisfied are capable of indicating clearly that it is doing banking business.

(2) The provisions of subsection (1) shall not apply where the use of such word —

(a) is for the sole use of forming and incorporating a company with a view to applying for a licence under this Act;

(b) is included in the title of a staff association or similar organization of a financial institution.

(3) Subject to subsection (2), any person who contravenes the provision of subsection (1) shall be guilty of an offence and liable to a fine of P2 000.

Names of
financial
institutions

9. (1) A licence shall not be issued to any financial institution under a name which is, in the opinion of the Central Bank, likely to mislead the public.

(2) No financial institution shall, without the written approval of the Central Bank, use or refer to itself by, or transact business under, a name other than that under which it is licensed.

(3) The Central Bank may, upon application being made in writing, and subject to such conditions as it may impose, permit the name under which a licence has been issued to be amended.

(4) Where the Central Bank is of the opinion that the name under which a financial institution is licensed is likely to mislead the public, it may serve notice on that institution requiring it to amend such name within such period as may be specified in the notice, and at the expiration of such period that financial institution shall cease to use, or refer to itself by, or transact business under such name, and shall take such steps as may be necessary, whether under this Act or any other written law, to amend such name.

(5) Any financial institution that uses, or refers to itself by, or transacts business under, a name other than that under which it is licensed, or which has been approved by the Central Bank under subsection (2), or, after the expiration of the specified period, a name which it has been required to amend under subsection (4), shall be guilty of an offence and liable to a fine of P500 for each day on which the offence continues.

10. (1) No local financial institution shall be granted a licence unless it is incorporated as a company under the Companies Act, and limited by share capital.

Financial
institutions
to be
incorporated

(2) All shares endowed with voting rights in the share capital of local financial institution shall be in registerable form.

(3) No foreign financial institution shall be granted a licence unless it is registered as an external company under the Companies Act.

(4) In addition to the register required to be kept under section 88 of the Companies Act every local financial institution shall maintain a register, in such form as the Central Bank may approve, of the current beneficial owners of all shares endowed with voting rights in the share capital of such institution and no transfer of such shares shall be valid until it has been recorded in such register.

Provided that a financial institution shall not be required to keep an additional register if the Central Bank is satisfied that the register kept by such financial institution under section 88 of the Companies Act shows clearly the current beneficial owners of all shares endowed with such voting rights and a record of any change in the beneficial owners thereof.

(5) The register required to be maintained under subsection (4) shall be kept open for inspection by members of the public at the institution's principal place of business and without charge during the institution's normal hours of business.

11. (1) An application for a licence by a financial institution shall be made in writing to the Central Bank and shall contain or shall be accompanied by —

Application
for and
granting of
licences

(a) a certified copy of the memorandum and articles of association of the applicant, or, in the case of a foreign financial institution, such documents of similar effect

regulating its affairs, or such other documents as the Central Bank may require to establish the manner of control and management of the institution, and, in the case of a public company in formation, a copy of its prospectus or similar document required under the law relating to the formation of that company, and the name, nationality and address of every subscriber thereto;

- (b) a statement of the address of the head office of the applicant name, nationality and address of its chairman, of every director and of its principal officer;
- (c) such financial data as the Central Bank may require, including a copy of the balance sheet of the applicant as at date within 90 days prior to the date of its application;
- (d) full particulars of the business the applicant proposes to carry on, and of the manner in which it proposes to carry on such business;
- (e) the location of the applicant's principal place and other places of business in Botswana and, in the case of a local financial institution outside Botswana, where it proposes to carry on its activities, and a schedule of places to be served by any mobile agency;
- (f) full particulars of any shareholding in the institution giving the holder thereof 20% or more of the voting rights or power to appoint any of the directors of the institution.

(2) In the case of an applicant who is a foreign financial institution, such applicant shall, in addition to the documents required to be lodged in accordance with subsection (1), lodge with the Central Bank —

- (a) a written certificate of designation, which may be changed from time to time thereafter by the lodging of a new certificate of designation, specifying the name and address of the officer, agent, or other person in Botswana upon whom all process in any action or proceeding against it on a cause of action arising out of a transaction with its places of business in Botswana may be served with the same force and effect as if such institution were organized in Botswana and had been lawfully served with process therein, and to whom any such process served on the Central Bank under paragraph (b) shall be forwarded; and
- (b) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the Central Bank its true and lawful agent upon whom any process referred to in paragraph (a) may be served with the same force and effect as if such institution were organized in Botswana and had been lawfully served with such process therein.

(3) The Central Bank may require an applicant for a licence to

submit such additional information or documents as it may consider necessary or desirable.

(4) An application and every document submitted in accordance with subsection (1) or (3) shall be signed by the principal officer or the applicant, or, if the applicant is a company in formation, by the subscribers to the memorandum and articles of association.

(5) An applicant for a licence shall, at the time of lodging the application, pay to the Central Bank the investigation fee specified in the Schedule.

(6) In considering an application for a licence, the Central Bank shall conduct such investigation as it may deem necessary to ascertain —

- (a) the validity of the documents and information submitted under subsections (1), (2) and (3);
- (b) the financial status and history of the applicant;
- (c) the adequacy of its capital structure;
- (d) the capacity of the applicant —
 - (i) to be independent of dominant personal and commercial interests;
 - (ii) to provide such new capital as may be required in the future; and
 - (iii) to comply with the provisions of this Act;
- (e) the convenience and needs of the community it intends to serve;
- (f) its proposed operations;
- (g) the earning prospects afforded by the area primarily to be served;
- (h) the prospective effect that the opening of a financial institution may have on existing financial institutions in such area; and
- (i) the public interest.

12. (1) Within 90 days after the receipt of an application, or, where additional information or documents have been required, within 90 days after the receipt of such information or documents, the Central Bank shall inform the Minister that it is considering an application for a licence under this section.

Central Bank
to inform
Minister of
application

(2) No financial institution shall be granted a licence unless it fulfils the minimum capital requirements specified in section 19 (1).

(3) In granting a licence under this section, the Central Bank may impose conditions to be complied with by the licensee and, without prejudice to the generality of the foregoing, such conditions may include conditions as to the place or places at which the licensee shall carry on business, or the services or facilities that the licensee shall provide or refrain from providing.

(4) In refusing to grant a licence under this section the Central Bank shall furnish to the applicant a written statement of the reasons for its decision:

Provided that, if the Minister certifies to the Central Bank that the granting of such licence is not in the public interest, such certification shall be final and shall not be questioned in any court, and no other reason need be furnished to the applicant.

Duration
of licence,
conditions
and annual
fee

13. (1) The validity of a licence issued to a financial institution shall be of indefinite duration.

(2) It shall be a condition of every such licence that —

(a) the licensee transacts business at and only at the places specified therein; and

(b) the licensee informs the Central Bank of any change in the particulars supplied in its application for a licence within 28 days of such change.

(3) The Central Bank may amend the terms and conditions of any such licence on every anniversary of the issue thereof.

(4) (a) Every licensed financial institution shall pay to the Central Bank such annual fee as the Central Bank may specify, by notice published in the Gazette.

(b) The Central Bank may specify different fees in respect of different classes of financial institutions, which shall apply uniformly in respect of all institutions within any class.

(c) The annual fees specified under this subsection shall be paid by the licensed financial institution to the Central Bank with 28 days prior to the anniversary of the issue of such licence and, if unpaid within that period, shall be a debt due to the Central Bank and recoverable in a court of competent jurisdiction.

Places of
business

14. (1) No financial institution shall, without the prior consent in writing of the Central Bank, transact business in Botswana at any place or places of business in Botswana.

(2) No local financial institution shall, without the prior consent in writing of the Central Bank, transact business outside Botswana at any place or places of business other than that specified in its licence, or close an existing place of business outside Botswana.

General
conditions

15. (1) Without the prior written approval of the Central Bank, no person may acquire either directly or indirectly any interest in a local financial institution which would confer upon him a voting right exceeding 20% of the total or any right to appoint directors, and, in considering any application for such approval, the Central Bank may call for such information as it considers necessary.

(2) Without the prior written approval of the Central Bank, no local financial institution shall —

(a) enter into a merger or consolidation;

(b) transfer or otherwise dispose of the whole or any part of its

property whether in or out of Botswana other than in the ordinary course of its business;

- (c) effect a reduction of its paid-up share capital;
- (d) amend the instrument under which it is organised; or
- (e) alter the name under which it is licensed to do banking business.

(3) Without the prior written approval of the Central Bank, no foreign financial institution shall —

- (a) transfer or otherwise dispose of the whole or any part of its property in Botswana other than in the ordinary course of its business; or
- (b) effect a reduction of its assigned capital in Botswana.

16. (1) The Central Bank may revoke the licence of any financial institution which —

Revocation
of licence

- (a) fails to commence operations within a period of one year following the grant of the licence or such other period as may be specified therein;
- (b) exceeds the terms of the licence or fails to comply with any conditions thereof or fails to comply with any requirement of the Central Bank under section 36 (a);
- (c) contravenes any of the provisions of this Act; or
- (d) ceases to carry on the business for which it is licenced.

(2) Before revoking the licence of a financial institution the Central Bank shall give such institution not less than 28 days' notice of its intention so to do, and if such institution fails within such period to show cause satisfactory to the Central Bank why such licence should not be revoked, the Central Bank may then revoke such licence.

(3) Notwithstanding the provisions of subsection (2), the Central Bank may, without waiting for the expiration of the 28 day period of notice, apply to the High Court for an injunction to cause the financial institution to suspend all or any part of the business being conducted by such institution, and, upon good cause shown, the High Court may grant such injunction.

(4) When the Central Bank has revoked a licence, it shall, as soon as possible thereafter, publish or cause to be published in the Gazette, notice of the revocation, and in such other manner as is, in the opinion of the Central Bank, likely to inform the public of such revocation.

(5) Any financial institution aggrieved by the decision of the Central Bank to revoke its licence under this section shall be entitled to appeal such decision in accordance with the provisions of section 17.

17. (1) Where the Central Bank takes a decision to —

- (a) refuse to grant a licence under section 12 or section 18;
- (b) withhold consent for the opening or closing of a branch, agency or office of a financial institution under section 14;

Appeal to
Minister

(c) vary the terms and conditions of a licence under section 13(3); or

(d) revoke a licence under section 16;

the aggrieved party shall be entitled to appeal such decision to the Minister within fifteen days from the date on which such aggrieved party received notification of the decision of the Central Bank.

(2) The Minister shall afford the aggrieved party an opportunity of submitting to him a written statement of its grounds of appeal and shall make his decision as soon as may be practicable thereafter.

(3) Subject to subsection (4), if the aggrieved party is not satisfied with the decision of the Minister under this section, it may appeal to a court of competent jurisdiction, in accordance with the procedures applicable to such court, within fifteen days of receiving notification of the Minister's decision.

(4) Any appeal to the Court under this section shall be permitted only in the case of a decision involving the revocation of a licence, and shall relate only to questions of law. In all other cases the decision of the Minister pursuant to subsection (2) shall be final.

Licensing of
agents etc.

18. (1) For the purposes of this section —

(a) "investment institution" includes any person a substantial share of whose business includes the receiving of funds from the public or from members thereof through the acceptance of money deposits or any similar operation through the sale or placement of bonds, certificates, notes, or other securities, or the making of investments, loans, advances or any similar operation through the granting of credit or the acquisition of claims, for the account and at the risk of the person doing such business;

(b) "agent of a foreign financial or investment institution" means any person who acts as agent of a financial or investment institution not licensed in Botswana or represents any such institution or undertakes any activity on its behalf in Botswana, other than in the course of legal proceedings.

(2) No person, other than a licensed financial institution shall serve as agent of a foreign financial or investment institution except under the authority and in accordance with the terms and conditions of a valid licence issued under this section for such purpose.

(3) In applying for a licence under this section, or for a renewal thereof, the applicant shall submit in writing to the Central Bank full particulars of —

(a) his authority to represent or undertake any activity on behalf of such institution;

- (b) the type of business he proposes to carry on; and
 - (c) the manner in which and the places at which, he proposes to carry on such business.
- (4) A licence under this section or a renewal thereof may be granted by the Central Bank upon payment to the Central Bank of the fee prescribed in the Schedule and shall be valid for such period as may be specified therein.
- (5) In granting or renewing a licence under this section the Central Bank may impose such conditions as it considers necessary or desirable.
- (6) A licence granted or renewed under this section may be revoked by the Central Bank if the licensee —
- (a) exceeds the terms of his licence or fails to comply with the conditions thereof or fails to comply with any requirement of the Central Bank under this Act;
 - (b) contravenes any of the provisions of this Act;
 - (c) fails to notify the Central Bank of any change in the particulars supplied to the Central Bank in his application for a licence within 28 days of such change;
 - (d) is declared bankrupt or makes a composition with his creditors, whether within Botswana or abroad; or
 - (e) is convicted of any offence involving dishonesty or fraud, whether committed in Botswana or abroad.
- (7) Before revoking a licence under subsection (6) the Central Bank shall give the licensee not less than 28 days' notice of its intention so to do and shall afford him reasonable opportunity to show cause, satisfactory to the Central Bank, why such licence should not be revoked.
- (8) Notwithstanding subsection (7), the Central Bank may, without waiting for the expiration of the 28 days' period of notice, apply to the High Court for an injunction to cause the licensee to suspend all or any part of the business being conducted by him, and upon good cause shown the High Court may grant such injunction.
- (9) When the Central Bank has revoked a licence under this section, it shall as soon as possible publish or cause to be published in the Gazette, notice of the revocation, and in such other manner as is, in the opinion of the Central Bank, likely to inform the public of such revocation.
- (10) Any person acting as agent within the meaning of this section without a valid licence therefor shall be guilty of an offence and liable to a fine of P1 000 for each day for which the offence continues.

PART III *Financial Requirements and Limitations*

19. (1) (a) Every financial institution shall maintain unimpaired apital, either paid up if it is a local financial institution, or

Capital
requirements

assigned if it is a foreign financial institution, at least equal to the minimum amount specified either in section 20(a)(i) or in section 20(a)(ii), as the case may be.

(b) For the purpose of computing the minimum required capital of a financial institution when such amount is prescribed in reference to assets, such assets shall be of such kinds and computed in such manner as the Central Bank may prescribe.

(2) (a) Every financial institution shall maintain a Statutory Reserve Account which shall be included in the minimum required capital and, before any dividend is declared or any profit is transferred to the head office or elsewhere, shall transfer to such Account out of the net profit of each year, after due provision has been made for taxation, a sum equal to not less than that specified in section 20(c).

(b) The Central Bank shall from time to time prescribe the method of computing the amount and the form of the Statutory Reserve Account.

(c) The Statutory Reserve Account shall neither be reduced nor impaired:

Provided that the Central Bank may, by regulation, specify circumstances in which it may be reduced, and shall permit a reduction when a transfer is made for the purpose of increasing capital. The Central Bank shall permit an impairment of the Statutory Reserve Account when it is the only means of preventing an impairment of the paid-up or assigned capital, subject to agreement on the period within which the deficiency must be made good.

(3) The Central Bank, upon good cause shown by a financial institution, may exempt such financial institution from the provisions of section 20 for a period not exceeding 24 months, on the basis of a schedule agreed between it and the financial institution specifying the progressive application of that section.

20. The following requirements shall apply in respect of a financial institution:

(a) The minimum required capital plus the Statutory Reserve Account together with undivided profits, retained income and other reserves as the Central Bank may specify shall not —

- (i) in the case of a financial institution operating as a bank be less than the greater of P1 000 000 or six percent of its total assets in terms of the most recent annual balance sheet; and
- (ii) in the case of a financial institution operating as a credit institution be less than the greater of P100 000 or eight percent of its total assets in terms of the most recent annual balance sheet.

(b) If, as a consequence of a review of capital adequacy both

with regard to risk assets and other activities which entail risk undertaken by the Central Bank as part of its examinations under section 33(1), the Central Bank determines that the capital and reserves of a financial institution are inadequate, the Central Bank may call for corrective measures as authorised by section 36(a) of this Act.

- (c) Every financial institution shall, at the end of each financial year, transfer to its Statutory Reserve Account a sum equal to not less than twenty five percent of its net profit.

21. No financial institution shall at any time declare credit or pay any dividend or make any other transfer from profits other than a transfer required under paragraph (c) of section 20 until all impairment of its paid-up share capital or its assigned capital, as the case may be, has been removed.

Restriction
on declaration of
dividend etc.

22. In making the calculations necessary to ascertain that a financial institution is complying with the requirements of section 19 and 20 —

Provisions
to be made
for certain
items

- (a) provision shall be made to the satisfaction of the Central Bank, in consultation with the auditor appointed under section 27(1) or (4), for the following items —

- (i) depreciation of assets, including accumulated depreciation and bad or doubtful debts (to be calculated at least once in each calendar year), including bad debt not yet written off;
- (ii) operating and accumulated losses;
- (iii) preliminary expenses representing expenses relating to organization or extension of the purchase of business or goodwill, and including underwriting commission;
- (iv) the value of any assets lodged or pledged to secure liabilities incurred under any written law where all the liabilities (including contingent liabilities) so secured are not included in the calculation and where the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the institution to the public; and
- (v) such other items as may be prescribed;

- (b) paid up share capital or assigned capital, as the case may be, and liabilities shall be of such kinds and computed in such manner as may be determined by the Central Bank.

23. (1) The Minister may, on the advice of the Central Bank, by notice published in the Gazette, direct that every financial institution of a specified class or classes shall maintain in Botswana such investments as may be specified in such notice of an amount to be determined as a percentage, not exceeding 10%,

Specified
investments
to be
maintained

to be specified in the notice, of its deposit and similar liabilities to the public as shown in its last preceding monthly statement furnished to the Central Bank under section 30.

Provided that every such notice shall afford every institution required to maintain such specified investments a reasonable period, being not less than 3 months, in which to comply.

(2) For the purposes of subsection (1) the Minister shall specify only securities which are issued or guaranteed by Government or securities issued by a statutory corporation or a corporation wholly owned by Government and approved by the Central Bank for the purposes of this section.

Minimum
local
assets
to be
maintained

24. (1) The Central Bank may, with the approval of the Minister and by notice in the Gazette, direct that every financial institution of a specified class or classes shall maintain minimum local assets of an amount to be determined as a percentage, not exceeding 100%, of the aggregate value of such institution's —

- (a) deposit and similar liabilities to the public, as shown in the last preceding monthly statement furnished to the Central Bank under section 30; and
- (b) minimum required paid-up share capital or assigned capital, as the case may be, Statutory Reserve Account.

Provided that no such institution shall be required to augment its holdings of local assets during any month by an amount in excess of 10% of the aggregate value referred to in this section.

(2) For the purposes of this section "local assets" means assets consisting of loans to, investment in, and deposits with residents of Botswana and such other assets, situate in Botswana, as the Central Bank may, in the notice issued under subsection (1), approve.

Minimum
liquid
assets
to be
maintained

25. (1) (a) The Central Bank may, by notice delivered to the principal place of business in Botswana of every financial institution affected thereby, direct that every financial institution of a specified class or classes shall maintain liquid assets amounting to not less than a determined percentage of the total, or specified categories, of its deposit and similar liabilities to the public as shown in the last preceding monthly statement furnished to the Central Bank under section 30:

Provided that the Central Bank shall not, without the prior approval of the Minister, require a financial institution to maintain, under this section, a total amount of liquid assets exceeding 35% of such deposit and similar liabilities.

(b) The distribution of the total amount required to be held under this section of the various classes or subclasses of liquid assets shall, unless the Central Bank otherwise directs, be made at the discretion of each financial institution.

(c) The Central Bank may disallow any particular assets

referred to in subsection (2) if the Central Bank is satisfied that it is not a *bona fide* asset of that financial institution.

(2) For the purposes of this section —

“liquid assets” means freely transferable assets, unencumbered by any charge or lien whatsoever, of the following classes —

(a) primary reserve assets comprising —

- (i) notes and coins that are legal tender in Botswana;
- (ii) balances held with the Central Bank; and

(b) secondary reserve assets comprising —

- (i) net balances withdrawable on demand and money at call at the Central Bank or at any licensed financial institution in Botswana;
- (ii) Treasury bills and other securities issued by the Government and maturing within 370 days;
- (iii) net balances withdrawable on demand and money at call or at not more than 31 days’ notice at such financial institutions, denominated in such currencies and located in such countries and available in accordance with such terms as the Central Bank may approve;
- (iv) negotiable instruments of such types as the Central Bank may approve bearing at least two good signatures, payable within a period of 186 days and drawn on such places, and denominated in such currencies, as the Central Bank may approve;
- (v) Treasury notes on bills issued by the governments of such countries, and denominated in such currencies, as the Central Bank may approve, and maturing within 370 days;
- (vi) such other assets as the Central Bank may, from time to time, approve.

(3) A financial institution shall be guilty of an offence if —

- (a) it fails to furnish, within a reasonable time any information required by the Central Bank to satisfy the Central Bank that the financial institution is observing the requirements of subsection (1); or
- (b) it allows its holdings of liquid assets to be less than is from time to time prescribed by the Central Bank; or
- (c) at any time when its liquid assets are less than prescribed by the Central Bank, it grants or permits increases in advances or overdrafts without the prior approval of the Central Bank.

(4) A financial institution which commits an offence under subsection (3) shall be liable on conviction to a fine of P1 000 —

- (a) for each day during which a default under paragraph (a) of that subsection continues;

- (b) for each day during which it permits its liquid assets to be less than prescribed by the Central Bank; and
- (c) for every grant or increase of an advance or overdraft made, while its liquid assets are less than prescribed by the Central Bank, without the prior approval of the Central Bank.

26. (1) (a) Without the prior written approval of the Central Bank acting after consultation with the Minister, no financial institution shall, directly or indirectly, grant to any person, any accommodation so that the total value of such accommodation to or on behalf of such person:

Limitations
on specified
operations
and
activities

- (i) if less than fully secured in accordance with paragraphs (ii) and (iii) is at any time more than ten percent of the gross capital funds of such institution; or
- (ii) if granted against security, the type and value of such having been ascertained to be acceptable to the Central Bank, of at least twenty five percent more than the obligations secured thereby, is at any time more than twenty five percent of the gross capital funds of such institution;
- (iii) if fully secured by readily marketable liquid financial instruments or bullion, as determined by the Central Bank and which are at least equal to the amount of the accommodation or are upon or with respect to bankers' acceptance or guarantees issued by such other financial institutions, as are acceptable to the Central Bank and of the kind and maturities authorised by the Central Bank, is at any time more than 50% of gross capital funds of such institution.

(b) The limitation in paragraph (a) shall not apply in respect of the foregoing transactions if such transactions represent loan advances or credit facilities to, or guaranteed by, government.

(c) For the purposes of paragraphs (a) and (b) —

“accommodation” means a loan, advance or other credit facility, financial guarantee or other liability given or incurred by a financial institution to or on behalf of any person.

“gross capital funds” means paid up or assigned capital plus the Statutory Reserve Account referred to in subsection 2(a) of section 19 together with other such reserves, undivided profits, or retained income as the Central Bank may specify.

(d) If the Central Bank determines that the interests of a group of two or more persons are so inter-related that they should be considered as a unit, then for the purposes of paragraph (a), the total indebtedness of that group shall be combined and deemed to be in respect of a single person:

Provided that where the Central Bank makes a determination that under this paragraph whereby the combined indebtedness exceeds the limitation provided in paragraph (a), the financial institution concerned shall be permitted to dispose of the excess of such indebtedness within such reasonable period as the Central Bank shall determine.

(2) No financial institution shall, directly or indirectly, grant any loans, advances or credit facilities against the security of its own shares or, except with the prior approval in writing of the Central Bank, those of any other financial institution.

(3) No financial institution shall, directly or indirectly, except with the prior approval in writing of the Central Bank, grant or permit to be outstanding unsecured loans, advances or credit facilities of an aggregate amount in excess of P50 000 —

- (a) to its directors, or any of them, whether severally or jointly together with any other person;
- (b) to any person in which it or any one or more of its directors is interested as owner, shareholder, director, partner, manager, agent or member; and
- (c) to any person of whom or of which it or any one or more of its directors is a guarantor.

(4) No financial institution shall, directly or indirectly, grant or permit to be outstanding to any of its officers (other than a director) or employees unsecured loans, advances or credit facilities which in aggregate amount exceed one year's emoluments of such officer or employee.

(5) No financial institution shall, directly or indirectly, whether on its own account or on a commission basis, engage in the wholesale or retail trade, including the import or export trade, except insofar as may exceptionally be necessary in the course of banking business or in the course of the satisfaction of debts due to it or in the course of any trusteeship or administration of the estate of a deceased person.

(6) No financial institution shall, directly or indirectly, acquire or hold any part of the share capital of any financial, commercial, agriculture, industrial or other undertaking except such shareholdings as may be acquired in the course of the satisfaction of debts due to it, which shareholdings shall, however, be disposed of at the earliest suitable moment:

Provided that this subsection —

- (a) shall not prevent the purchase and sale of shares or stock for trust account or upon the order and for the account of a customer without recourse; and
- (b) shall not apply —
 - (i) to any shareholding in any company approved by the Central Bank and set up for the purpose of insuring deposits or of promoting the development of a money

market or securities market in Botswana or of improving the financial mechanism for the financing of economic development;

(ii) to any shareholdings in other undertakings the aggregate value of which does not at any time exceed 25% of the sum of its unimpaired, paid up or assigned capital and unimpaired balance in its Statutory Reserve Account;

(iii) to any shareholdings acquired in the course of the administration of the estate of a deceased person.

(7) (a) No financial institution shall, directly or indirectly, purchase, acquire or take on lease immovable property except as may be necessary for the purpose of conducting its business, including provision for future expansion or housing its staff or in such other circumstances as the Central Bank may approve.

(b) A financial institution may secure a debt on any immovable property and in default of repayment may acquire such property for resale as soon as possible thereafter.

PART IV *Audit, Information and Examination*

Audit

27. (1) Every financial institution shall appoint annually an independent auditor, satisfactory to the Central Bank, whose duty shall be to report to the shareholders of a local financial institution or to the head office of a foreign financial institution upon the annual balance sheet and profit and loss account, and in every such report such auditor shall state whether in his opinion the balance sheet and profit and loss account are properly drawn up, whether they exhibit a true and fair statement of the financial institution's affairs and, if such auditor has called for explanations or information from directors, officers or agents of the financial institution, whether such explanations or information were supplied and were satisfactory.

(2) Every auditor appointed under subsection (1) or (4) shall have the right of access at all times to such books, accounts, vouchers and securities of that institution, and shall be entitled to require from the officers, servants and agents of that institution such information and explanations as he requires correctly to perform his duties as an auditor.

(3) (a) The report of every auditor appointed under subsection (1) or (4) of a local financial institution shall be read together with the report of the board of management at the annual meeting of the shareholders of such institution.

(b) The report of every auditor appointed under subsection (1) or (4) of a foreign financial institution shall be transmitted to the head office of such institution.

(c) A copy of every such auditor's report shall be sent to the Central Bank.

(d) The Central Bank may, if it is not satisfied with the report, require the prompt appointment of a new auditor who shall make an independent report and whose remuneration shall be paid by the financial institution concerned.

(4) If a financial institution fails to appoint an auditor in accordance with the provisions of subsection (1), the Central Bank may appoint an auditor whose remuneration shall be paid by the financial institution.

(5) None of the following persons shall be qualified for appointment under this section as auditor of a financial institution —

- (a) a director, officer or servant of that institution or any affiliate;
- (b) a person who is a partner of a director, officer or servant of that institution or any affiliate;
- (c) a person who is an employee or employer of a director, officer or servant of that institution or any affiliate;
- (d) a body corporate;
- (e) a person who, by himself, or his partner or his employee, regularly performs the duties of secretary or book-keeper to that institution or any affiliate; or
- (f) a person who either directly or indirectly has any interest in that institution otherwise than as a depositor.

28. Every financial institution shall keep such records in Botswana as are necessary to exhibit clearly and correctly the state of its affairs and to explain its transactions and financial position and to enable the Central Bank to determine whether the institution has complied with the provisions of this Act, and it shall preserve every such record for a period of at least 5 years as from the date of the last entry therein.

Financial
records

29. (1) Not later than 3 months after the expiration of its financial year, every local financial institution shall prepare, in respect of all business transacted by it in that year, and every foreign financial institution shall prepare, in respect of all business transacted through its places of business in Botswana in that year, a balance sheet and profit and loss account as of the last working day of that year in such form as the Central Bank may approve, audited in accordance with section 27 and under the joint signatures of the principal officer and majority of directors, in the case of a local financial institution, or of the principal officer and the next most senior officer in Botswana in the case of a foreign financial institution.

Annual
Accounts

(2) Every financial institution shall —

- (a) within 14 days after the preparation of a balance sheet and profit and loss account in accordance with the provisions of subsection (1) —
 - (i) send copies thereof to the Central Bank; and

- (ii) publish a copy of such balance sheet in such manner as the Central Bank may direct; and
- (b) exhibit throughout the year in a conspicuous position in each of its places of business in Botswana, other than a mobile agency, a copy of its latest such balance sheet and a brief statement of income and expenditure for its most recent financial year.

Returns **30.** Every financial institution shall, not later than 21 days after the last day of each month, send to the Central Bank, in duplicate and in such form and on such dates as the Central Bank may determine, a statement of its assets and liabilities together with such other information as the Central Bank may require in respect of its places of business in Botswana.

Central Bank may call for information **31.** (1) The Central Bank may call for any information which it may require for the purpose of the administration of this Act from any financial institution about its operations in Botswana or those of its affiliates in Botswana and, additionally, in the case of a local financial institution, about its operation and those of its affiliates abroad.

(2) Any financial institution which fails to supply any information called for by the Central Bank under subsection (1) or which supplies any false or misleading information shall be guilty of an offence and liable to a fine of P10 000.

Extension of time **32.** Where under this Act any information or document is required to be supplied to the Central Bank within a stated period the Bank may, at the request of a financial institution, from time to time extend such period.

Examinations **33.** (1) The Central Bank may, periodically or at its discretion examine or cause to be examined under conditions of secrecy the affairs of any financial institution in order to determine whether it is in a sound condition and whether the requirements of this Act have been and are being complied with in the administration of its affairs.

(2) For the purpose of determining the condition of a financial institution and its compliance with this Act in the course of an examination undertaken pursuant to subsection (1), the Central Bank may examine or cause an examination to be made of any of its affiliates in Botswana to the same extent and under the same conditions that an examination may be made of the financial institution.

(3) The Central Bank shall examine or cause an examination to be made to the extent and under the same conditions that an examination may be made under subsection (1) where application is made by one-fifth of the total number of depositors, or by any number of depositors holding not less than one-third of the liabilities to the public in Botswana of that institution:

Provided that the applicants shall submit to the Central Bank

such evidence as it may consider necessary to justify such examination.

34. (1) Every financial institution and every affiliate of such institution shall, for the purpose of an examination conducted under section 33, produce for the inspection of any examiner duly authorised by the Central Bank to examine their affairs, at such times and such places as the examiner may specify (being times and places which, in the opinion of the examiner, would not be detrimental to the conduct of the normal daily business of such institution or affiliate), all books, minutes, accounts, cash, securities, documents, records and vouchers in their possession or custody, relating to their business, and shall supply all information concerning their business as may reasonably be required by such examiner within such time as the examiner may specify.

Production
of records
and
information
for
examiner

(2) If any books, minutes, accounts, cash, securities, documents, records or vouchers are not produced or information is not supplied in accordance with subsection (1), the defaulting financial institution or affiliate, or both, as the case may be, shall be guilty of an offence and liable to a fine of P400 in respect of every day during which the default continues.

(3) If any information supplied or item produced under subsection (1) is false in any material particular, the financial institution or affiliate, or both, as the case may be, shall be guilty of an offence and liable to a fine of P10 000.

(4) As soon as possible after the conclusion of an examination, the Central Bank shall forward a summary of the examiner's report containing its salient points to the financial institution or affiliate concerned.

(5) All expenses of and incidental to an examination shall be paid by the financial institution concerned in such manner as the Central Bank may determine.

35. Any director, manager, principal officer or any other officer, employee, agent or the representative of a financial institution or affiliate who —

Offences
and penalties

(a) obstructs —

(i) the proper performance by an auditor of his duties in accordance with the provisions of this Act; or

(ii) a lawful examination of such institution or affiliate by an examiner duly authorized by the Central Bank; or

(b) with intent to deceive, makes any false or misleading statement or entry in, or omits any statement or entry that should be made in, any book, account, report or statement of such institution or affiliate,

shall be guilty of an offence and liable to a fine of P2 000 and to imprisonment for 12 months.

Powers of
Central Bank
after
examina-
tion

36. If, in the opinion of the Central Bank, an examination shows that a financial institution or affiliate concerned is conducting its business in an unlawful or unsound manner or that it is otherwise in an unsound condition, the Central Bank may, in addition to any other course of action open to it,

- (a) require such institution to take such measures as it may consider necessary to rectify the situation;
- (b) appoint a person who, in the opinion of the Central Bank, has had the proper training and experience to advise the financial institution or affiliate on measures to be taken to rectify its situation, and shall fix his remuneration which shall be paid by such financial institution or affiliate.

Annual
report

37. The Central Bank shall annually submit to the Minister a report —

- (a) on the business affairs of —
 - (i) all financial institutions and agents licensed under this Act;
 - (ii) any corporation or other institution or body named in section 3 in respect of which any provision of this Act has been applicable pursuant to the provision to section 3(1);
 - (iii) any person or institution whose affairs have been examined by the Central Bank pursuant to the provisions of section 33; and
- (b) on all other matters relating to the persons referred to in subparagraphs (a) (i) and (iii) of this section which the Central Bank has dealt with during the year under review.

PART V — *Miscellaneous Provisions*

Persons
debarred
from
management
or representa-
tion

38. (1) Without prejudice to the provisions of any other written law, any person who is a director or manager, or principal officer of, or is otherwise directly or indirectly concerned in the management in Botswana of a financial institution, or is a licensed agent under section 18, shall cease to exercise such function —

- (a) if he is declared bankrupt or makes a composition with his creditors whether in Botswana or elsewhere; or
- (b) if he is convicted of an offence involving dishonesty or fraud whether in Botswana or elsewhere.

(2) No person who has been a director or manager or principal officer of, or otherwise directly or indirectly concerned in the management of any financial institution which has been wound up, whether in Botswana or abroad, shall, without the approval in writing of the Central Bank, act as a director or manager or principal officer of, or otherwise be directly concerned in the management in Botswana of, any financial institution.

(3) Any person who contravenes the provisions of subsection (1) or (2) shall be guilty of an offence and liable to a fine of P4 000 and to imprisonment for 2 years.

39. Every financial institution shall either —

- (a) maintain a special reserve account which is, in the opinion of the Central Bank, adequate and which is reserved exclusively for the purpose of making good any loss resulting from the negligence or dishonesty of any director, manager, principal officer or any other officer or employee; or
- (b) insure itself against such loss, to an amount and in terms which the Central Bank deems adequate, with a person approved by the Central Bank and carrying on insurance business or the business of guaranteeing against such loss as aforesaid.

Provision for
losses due
to negligence
or dishonesty

40. (1) Except with the approval of the Central Bank, every place of business of a financial institution shall remain open for business with the public on such days, other than public holidays, Sundays and financial holidays declared under subsection (2), and during such hours as may be prescribed.

Days and
hours of
business

(2) The Minister, after consultation with the Central Bank, may, by notice published in the Gazette, declare any day to be a financial holiday on which financial institutions shall remain closed for business with the public.

(3) Every financial institution shall have posted in a conspicuous place in each office where it transacts business, other than a mobile office, the hours the office is open for the transaction of business and the rates of interest paid on deposits;

(4) Any financial obligation which can only be fulfilled at a financial institution, and which would fall due on any day on which such institution is not open for business under this section, shall be deemed to fall due on the next day on which such institution is open for business:

Provided that nothing in this subsection shall oblige a financial institution when open on a Saturday to deal in any foreign exchange transaction.

41. In all transactions connected with the opening of, deposit into or withdrawal from, a deposit account, whenever the depositor is unable to sign his name, his thumb impression may be affixed in the presence of an officer of the financial institution and if so affixed shall have the same force and effect as if it were the depositor's signature.

Substitution
for
depositor's
signature

42. (1) A financial institution which received any deposit while insolvent shall be guilty of an offence and liable to a fine of P1 000.

(2) A director, manager, principal officer or other officer or employee of a financial institution who knows of or ought to know of the insolvency of such institution, who receives, causes, or authorizes or permits the acceptance of, a deposit shall be guilty of an offence and liable to a fine of P10 000 and to imprisonment for 5 years.

Acceptance
of deposits
by insolvent
financial
institutions

Temporary
management
by
Central Bank

PART VI. *Temporary Management by Central Bank*

43. (1) When the Central Bank is satisfied, or has reasonable cause to believe, in respect of any financial institution, that —

- (a) its paid-up share capital or assigned capital, as the case may be, does not meet the requirements of section 19;
- (b) its business is being conducted in an unlawful or imprudent manner, or that it is otherwise in an unsound condition;
- (c) the continuation of its activities is not in the best interest of its depositors;
- (d) it has refused or refuses to permit an examination to be made of its affairs in accordance with section 33 or has otherwise obstructed such examination; or
- (e) it has been served with notice of intention to revoke its licence under section 16,

it may, after consultation with the Minister, serve on the principal officer of such financial institution a notice, announcing its intention of temporarily managing the institution from such date and time as may be specified in the notice.

(2) A copy of the notice referred to in subsection (1) shall be transmitted to the High Court, and posted at each place of business in Botswana of the financial institution.

(3) Upon the date and time specified in the notice referred to in subsection (1), there shall vest in the Central Bank full and exclusive powers of management and control of the financial institution, including, without prejudice to the generality of the foregoing, power to continue or discontinue its operations, to stop or limit the payment of its obligations, to employ any necessary officers or employees, to execute any instrument in the name of the institution, and to initiate, defend and conduct in its name any action or proceedings to which the institution may be a party.

(4) As soon as possible after the Central Bank has assumed temporary management of a financial institution, the Central Bank shall prepare an inventory of the property vested in, belonging to or held by such institution, and transmit a copy thereof to the High Court where it shall be available for examination by interested parties.

(5) All expenses of and incidental to the temporary management of a financial institution shall be paid by such financial institution in such manner as the Central Bank may determine.

(6) Upon the date and time specified in the notice, and subject to any appeal to the High Court, any term, statutory, contractual or otherwise, on the expiry of which a right of action of the financial institution would expire or be extinguished, shall be extended by 6 months or until 15 days after the Central Bank restores the financial institution to its board of management or owners, as the case may be, whichever event shall first occur.

44. (1) A financial institution on which notice has been served under section 43 may, within a period of 10 days after the date of such service, appeal to the High Court.

Appeal

(2) The High Court may, on sufficient cause being shown, extend such period of 10 days.

45. When the Central Bank has served notice on a financial institution under section 43, it shall, within a period of 60 days from the date specified in such notice or within such longer period as may be permitted by the High Court —

Limitation
on duration
of takeover

- (a) restore the financial institution to its board of management or owners, as the case may be;
- (b) petition the High Court for a winding-up or judicial management order in respect of the financial institution; or
- (c) propose a compromise or arrangement between the financial institution and its creditors under section 161 of the Companies Act, or a reconstruction of such financial institution under section 163 of the said Act:

Provided that for the purpose of this paragraph the provisions of section 161 to 164 inclusive of the said Act shall apply *mutatis mutandis* to external companies.

46. No execution shall be returned against the property of a financial institution during any period during which it is managed by the Central Bank under the provisions of section 43.

Limitation
on execution
during
management

PART VII. *Winding-up and Judicial Management.*

47. (1) Subject to the provisions of this Part, the provisions of the Companies Act relating to the winding-up and judicial management of companies (Part IV) or the winding-up of external companies (Part VI), as the case may be, shall be applicable to licensed financial institutions which are companies, or external companies, respectively, within the meaning of the said Act:

Exception to
Companies
Act

Provided that —

- (i) notwithstanding the provisions of section 293(2) of the Companies Act, sections 264 and 271 inclusive of the Companies Act, shall be applicable *mutatis mutandis* to licensed financial institutions which are external companies;
- (ii) the powers and functions assigned to the Master under the Companies Act, shall be exercised by the Central Bank or a person approved by the Central Bank; and
- (iii) the provisions of the Companies Act, specially applicable to a creditor's voluntary winding-up (sections 218 to 221 inclusive), shall not apply to licensed financial institutions.

48. Before any winding-up whether voluntary or by the court, or judicial management of a licensed financial institution may be commenced, 14 days' prior notice in writing shall be given to the Central Bank, and the Central Bank may —

Winding up
or judicial
management

- (a) take action under section 43;
- (b) in the case of a voluntary winding-up, permit the winding-up to proceed on such terms and conditions as the Central Bank may determine; or
- (c) in the case of a winding-up by the court or a judicial management, permit the petition to proceed, in which case the Central Bank shall be entitled to appear before the court at the hearing of the petition and make representations.

Evidence of claims

49. For the purposes of any winding-up and notwithstanding anything to the contrary in sections 187(2) and 226(2) of the Companies Act, or in the Insolvency Act, any entry in the books, accounts or records of a financial institution relating to deposits shall be *prima facie* evidence of the claims of the depositors.

Voidable and undue preferences

50. For the purposes of sections 236 and 269 of the Companies Act, when the Central Bank has, under section 43, taken over the temporary management of a financial institution which is subsequently wound-up or which is placed under judicial management and becomes insolvent, the taking over shall be deemed to correspond with a sequestration order under the Insolvency Act.

Exception to section 90(2) of Insolvency Act

51. Notwithstanding the provisions of section 256 of the Companies Act, and section 90(2) of the Insolvency Act, in the winding-up of a financial institution unable to pay its debts, any balance of the free residue after making provision for the payment of the secured and otherwise preferred claims, shall be applied in payment of the remaining claims in the following order —

- (a) deposits and interest accrued thereon up to an amount not exceeding P100 per depositor;
- (b) other deposits and interest accrued thereon;
- (c) other claims.

Unclaimed monies or property after winding up
Cap. 31:01

52. (1) Any sums of money remaining unclaimed after the winding-up of a financial institution shall be deposited in the Guardian's Fund established or continued under the Administration of Estates Act.

(2) Any other property held by the financial institution as a trustee, fiduciary, lessor of a safe deposit box or bailee, which has not been returned to its rightful owners in the course of the winding-up of such institution, shall, together with the inventories pertaining thereto, be placed in the custody of the Central Bank and, if unclaimed after a period of not less than 2 years, shall be disposed of in such way as may be prescribed.

Abandoned property

PART VIII. General Provisions, and Repeal

53. (1) The following items held or owing by a financial institution are presumed to have been abandoned —

- (a) any deposit made with such institution together with any interest thereon and in respect of which the depositor has not

for 15 years after the last deposit increased or decreased the amount of the deposit or presented the passbook or other record for the crediting of interest or corresponded with the financial institution concerning such deposit; and

- (b) other property deposited with the financial institution, including the contents of any safe deposit box upon which the lease or rental period has expired and in respect of which the owner thereof has not for 15 years following such deposit or such expiry, corresponded with such financial institution or in any other manner indicated an interest therein.
- (2) Every financial institution holding any items presumed to have been abandoned under subsection (1) shall report such holdings to the Central Bank and thereafter —
 - (a) in the case of any deposit, pay the same into the Guardian's Fund established or continued under the Administration of Estates Act, and deliver to the Master the name and last-known address of the depositor; and
 - (b) in the case of any other property, deliver the same to the Central Bank, together with the name and last-known address of the owner thereof.
- (3) Upon paying abandoned deposits to the Master and delivery of other abandoned property to the Central Bank, a financial institution shall be relieved of all liability for any claim in respect thereof to the extent of the value of such deposits or other property.
- (4) Any person claiming to be entitled to any abandoned deposit or other property and proving such entitlement to the satisfaction of the Master or the Central Bank, as the case may be, shall have the same returned to him.

54. (1) The Minister may, after consultation with the Central Bank, make regulations for the better carrying out of the provisions and purposes of this Act including the prescribing of anything required by this Act to be prescribed.

Regulations

(2) The Minister may, after consultation with the Central Bank, by regulation made under this section, vary the fees specified in the Schedule.

55. Any person who fails to comply with any requirement of the Central Bank under this Act shall be guilty of an offence and liable to a fine of P2 000.

Failure to comply with requirement of Bank Confidentiality

56. (1) Nothing in this Act shall be deemed to authorize the Minister to enquire or cause any enquiry to be made into the affairs of any individual customer of a financial institution.

(2) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required so to do by a court or under the provisions of any written law, no person appointed, employed or duly authorized by the Central Bank to examine the affairs of, or advise concerning, any financial institution shall disclose any information which he has acquired

in the performance of his duties or the exercise of his functions.

(3) Every person appointed under or employed in carrying out duties or duly authorized, under the provisions of this Act, except the Minister, shall make an oath or declaration of secrecy in the manner and form prescribed.

(4) Every person who, in contravention of the oath or declaration of secrecy made by him under subsection (3) and without lawful excuse discloses information or reveals any matter which has come to his knowledge in his official capacity shall be guilty of an offence and liable to a fine of P4 000 and to imprisonment for 2 years.

(5) Any person who, being required by this section to take the prescribed oath, acts in the execution of his office before he has made such oath shall be guilty of an offence and liable to a fine of P40.

(6) With respect to any licensed financial institution or licensed agent and notwithstanding the provisions of subsection (2), the Central Bank shall disclose upon request. —

- (a) the nature of the licence;
- (b) any conditions and limitations attached to such licence;
- (c) the place or places of business where the licensee may, according to its licence, conduct business; and
- (d) the name of the person upon whom process may be served in lieu of such licence when a certificate of designation has been lodged with the Central Bank under section 11(2).

Publication
of
information

57. The Central Bank may publish in whole or in part, in such form and at such time as it may determine, any information or data furnished or collected under this Act.

Provided that no information or data shall be published which might disclose the particular affairs of a financial institution or of a customer of a financial institution or customer, unless the consent of that financial institution or customer as the case may be, has been obtained.

Require-
ments of
other laws

58. (1) Except as otherwise expressly provided by this Act nothing in this Act shall be construed so as to relieve a financial institution from compliance with the provisions of the Companies Act.

(2) The issue of a licence under this Act shall not be deemed to exempt a financial institution or agent within the meaning of section 18 from the necessity of obtaining any other licence, permit or authority under any other written law, in respect of any activity carried on by such financial institution or agent.

Protection
of officers
and agents
from
personal
liability

59. No act or thing done by any officer of the Central Bank or any person acting under the direction of the Central Bank shall, if the act or thing done was *bona fide* for the purpose of carrying this Act into effect, subject such officer or person to any liability, action, claim or demand whatsoever.

Act 8 of 1975 60. The Financial Institutions Act, 1975, is hereby repealed.