

CHAPTER 74:09
AIR BOTSWANA (TRANSITION)
ARRANGEMENT OF SECTIONS

SECTION

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Act 16, 2003.

An Act to provide for the registration of Air Botswana as a public company under the Companies Act; for its continued existence as if it had been incorporated under that Act and for matters incidental thereto.

[Date of Assent: 27th August, 2003]
[Date of Commencement: On Notice]

1. Short title and commencement

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

(2) The Minister may prescribe a different date for the coming into operation of sections 1 to 6, which date shall, in any case, be earlier than the date that he may prescribe for the coming into operation of section 7.

2. Interpretation

In this Act, unless the context otherwise requires-

"**Air Botswana**" means Air Botswana, as established under the Air Botswana Act;

"**Company**" means Air Botswana, as continued under section 3 hereof; and

"**Registrar**" means the Registrar of Companies.

3. Registration and continuation of Air Botswana

(1) Air Botswana may apply to the Registrar to be registered as a public company under the Companies Act, and shall, upon registration, continue to exist as if it had been incorporated under that Act.

(2) An application under subsection (1) shall be supported by-

- (a) a copy of the law under which Air Botswana was established as a statutory corporation;
- (b) a copy of this Act;
- (c) a certified copy of the memorandum and articles of association, or of the documents detailing the constitution, as the case may be, of the Company;
- (d) a statement of the charges on the assets of Air Botswana; and
- (e) any other documents or information the Registrar may require.

(3) For the purposes of subsection (1), the Minister shall designate the amount of share capital with which the Company shall be registered and shall divide the capital into shares of a fixed amount.

(4) Notwithstanding anything to the contrary contained in the Companies Act, the Minister shall sign the memorandum and articles of association or certify the documents detailing the constitution, as the case may be, of the Company.

(5) Notwithstanding anything to the contrary contained in the Companies Act, the Company shall use "Air Botswana" as its company name and be legally designated as such for all purposes.

4. Conversion of financial interest of Government into issued shares

(1) From the date of coming into operation of sections 1 to 6, the financial interest of the Government in Air Botswana shall be converted into issued shares in the capital of the Company and held by the Minister, in trust for the Republic of Botswana.

(2) The Minister, in trust for the Republic of Botswana, may, with the concurrence of the Minister responsible for finance—

- (a) acquire, hold, dispose of and otherwise deal with shares of, or any security interest in, the Company;
- (b) enter into any agreement or arrangement necessary or incidental to any activity referred to in paragraph (a); and
- (c) exercise all the rights of the Government as shareholder in the Company, and may in writing delegate, to any other person, the exercise of such rights.

5. Transitional provisions

(1) From the date of the registration of Air Botswana as a company under the Companies Act, all assets and liabilities of Air Botswana shall become assets and liabilities of the Company without further assurance and the Company shall have all the powers necessary to take possession of, recover and deal with, such assets and discharge such liabilities.

(2) Every agreement, whether in writing or not, and every deed, bond or other instrument to which Air Botswana was a party or which affected Air Botswana, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Company were a party thereto or affected thereby instead of Air Botswana, and as if, for every reference therein to Air Botswana, there were substituted in respect of anything to be done on or after the date of registration of Air Botswana as a company under the Companies Act, a reference to the Company.

(3) Any legal proceedings pending immediately before the date on which Air Botswana is registered as a company under the Companies Act to which Air Botswana was a party shall be continued as if the Company had been a party thereto in lieu of Air Botswana.

(4) The Board of Management of Air Botswana shall, until otherwise determined by the Minister, and subject to the Memorandum and Articles of Association, or the documents detailing the constitution, as the case may be, of the Company, serve as Directors of the Company.

(5) All employees of Air Botswana shall become the corresponding employees of the Company and shall continue in office for the period for which, and be subject to the conditions under which, they were appointed, as employees of Air Botswana.

6. Reference to terms in certain Acts

From the date of coming into operation of sections 1 to this section, any reference to "wholly-owned Government corporations", "statutory corporation" or any such similar reference in the following Acts shall not be deemed to be a reference to the Company-

- (a) the Bank of Botswana Act;
- (b) the Finance and Audit Act; and
- (c) the Pension and Provident Funds Act.

7. Repeal of Cap: 74:07

The Air Botswana Act is hereby repealed.