

BUSINESS LAW QUARTERLY

Namibia Newsletter

APRIL 2017



A quarterly newsletter published by PwC Namibia providing informed commentary on current developments in the Namibian business arena and related fields.

Public Procurement Act becomes effective

The Public Procurement Act, Act 15 of 2015, previously promulgated by Parliament and published in the Government Gazette under Government Notice No.320 on 18 December 2015 has officially become effective.

This was announced by the Minister of Finance and published in the Government Gazette under Government Gazette No 6255 on 1 March 2017. In addition to the Act, the Public Procurement Regulations to the Act were also published in the Gazette.

The Act and Regulations become operational as of 1 April 2017.

The Act serves to regulate the following, amongst others:

- The procurement of goods, work and services to Government entities;
- The letting and hiring of products and/or services to Government entities;
- The acquisition or granting of rights for or on behalf of Government entities,
- The disposal of assets of Government entities; and
- The procurement method and bidding process to be followed.

The new act will affect all businesses that supply goods or services to the Namibian Government.

caricia.basson@pwc.com | vicky.kapuka@pwc.com



Reminder:

Amendments made to the Companies Administrative Regulations substituted the old form CM23 with a new 14 page CM23 form.

This was effective as from **September 2016** and all companies submitting their annual duty returns as of that date, should conform with the new regulations.

In this issue:

- 1** Public Procurement Act: Effective date as of 1 April 2017
- 2** Financial Intelligence Act - Determinations regarding the Master of the High Court and the Registrar of Companies and Close Corporations
- 3** BIPA—Effective administration of business and intellectual property rights in Namibia
- 4** Promulgation of the new Namibia Investment Promotion Act—What this means for investments in Namibia

Register now!

The PwC Business School will host the following training:

Directors Training: Managing Tax Risk at Board level

Date: Monday 10 April 2017
Location: PwC Windhoek Office, 344 Independence Avenue
Time: 07h30 - 11h00
Cost: N\$ 1,300.00
RSVP: By 07 April 2017

Register via
busschool@na.pwc.com

Click for more information:
<http://www.pwc.com/na/en/events/directors-training-managing-tax-risk-at-board-level.html>



This newsletter and previous issues are available on our website

<http://www.pwc.com/na/en/publications/business-law-quarterly.html>

To subscribe to this newsletter visit

<http://www.pwc.com/na/en/about-us/subscriptions.html>

Determinations under the Financial Intelligence Act, Act No. 13 of 2012

The Financial Intelligence Centre, known as the FIC, is the Financial Intelligence Unit of the Government of Namibia, it is mandated to assist with combatting money laundering and financing of terrorism.

The FIC in terms of the Financial Intelligence Act, Act No 13 of 2012 requires all accountable institutions offering certain services to establish the identity of their clients before doing business with the client, or immediately thereafter.

The director of the Financial Intelligence Centre issued two Notices, which were published in the Government Gazette, under Government Gazette No. 6253 on 1 March 2017:

1. TRUSTS

No. 62

Financial Intelligence Centre: Determination under the Financial Intelligence Act, 2012 (Act No.13 of 2012): The period within which the Master of the High Court must obtain and keep up-to-date prescribed information in respect of the founder, each trustee, each income beneficiary and each beneficial owner of all registered testamentary and inter vivos Trusts (Determination No. 01 of 2016)

What does this mean?

The Master of the High Court is expected to obtain and keep up to date prescribed information in terms of the Financial Intelligence Regulations, in respect of the founder, the trustees, the beneficiaries and the beneficial owner of all trusts which were registered before the Act came into effect.

Penalty

If the trust fails to adhere to the determination, the trust commits an offence and is liable to a fine not exceeding **N\$10 million**, and if such offence is attributable to a representative of the trust, to such fine or imprisonment not exceeding 10 years, or both fine and imprisonment.

2. COMPANIES & CLOSE CORPORATIONS

No. 63

Financial Intelligence Centre: Determination under the Financial Intelligence Act, 2012 (Act No.13 of 2012): the period within which the Registrar of Companies and Close Corporations collects information in respect of each member, director, shareholder and beneficial owner of companies and close corporations registered before the Financial

Intelligence Act, 2012 (Act No. 13 of 2012) came into force (Determination No. 02 of 2016)

What does this mean?

The Registrar of Companies and Close Corporations must collect information in respect of each member, director, shareholder and beneficial owner of companies or close corporation incorporated before the Act came into effect.

The information requested should be submitted within three months as of the end of such companies and close corporations' respective financial year end, and this was effective as from 1 September 2016.

Penalty

The consequences of not furnishing information required may result in the company or close corporation being de-registered by the Registrar. The company or close corporation is also guilty of an offence and is liable to a fine not exceeding **N\$10 million**, and if such offence is attributable to a representative of the company or close corporation, to such fine or imprisonment not exceeding 10 years, or both fine and imprisonment.

What to do

Trust, companies and close corporation owners are encouraged to start arranging their affairs by obtaining the necessary information required, as they will be required to submit same, either through themselves or through the institutions responsible for their trust administration / secretarial services.

Information required

For any trust, company or close corporation to be registered or any amendments to be made to the ownership of the trust, company or close corporation, such registration documents should be accompanied by copies of **original certified Identification Documents**.

Please Note

Although the determination only refers to trust, companies or close corporations registered before FIA came into effect, such requested information will also apply to all trust, companies or close corporation registered **after FIA came into effect**.

vicky.kapuka@pwc.com | estelle.walters@pwc.com

Business & Investment Guide for Namibia 2016

DOWNLOAD Our Business & Investment Guide prepared in collaboration with the Ministry of Industrialisation, Trade and SME Development & The Namibian Chamber of Commerce

<http://www.pwc.com/na/en/publications/business-and-investment-guide-for-namibia.html>



Promulgation of Business and Intellectual Property Authority (BIPA) Act

The Business and Intellectual Property and Authority Act “BIPA” has been promulgated by Parliament. The Act was published in Government Gazette No.6105 on 25 August 2016.

The Act provides for the establishment of a BIPA central body that will be responsible for the registration, regulation and the administration of business and intellectual property rights including trademarks, copyright, patent, industrial designs, and traditional knowledge. BIPA will be responsible for the administration of Intellectual Property Rights and the registrations of companies in Namibia.

The Act is not yet effective, and will become effective on a date that the Minister announces in the Government Gazette.

BIPA contacts: ndeshipanda@bipa.na | vivienne@bipa.na

jacolene.eagleton@pwc.com |



NEW: Namibia Investment Promotion Act, 2016 (Act No. 9 of 2016)

The Namibia Investment Promotion Act has been promulgated by Parliament. The Act was published in the Government Gazette under Government Gazette No 6110 on 31 August 2016.

Some of the fundamental changes being brought to the country's trade and investment environment includes:

- Clear and transparent framework for investments in Namibia;
- The introduction of performance agreements on investments;
- Efficient dispute resolution mechanisms involving investments; and
- Reservation of certain business and economic sectors for the state, Namibian entities whose majority shareholding is Namibian and joint venture partnerships with Namibian investors and foreign investors that meet the necessary requirements, such as investments for the benefit of Namibia.

Individuals and businesses specializing or interested in investments are encouraged to review and familiarize themselves with the Act. We understand that the Ministry of Trade is currently consulting on the Act. Kindly take note that the Act is not yet effective, and will become effective on a date that the Minister announces in the Government Gazette.

For more information, contact Angela Pretorius: pretorius@mti.gov.na or +264 61 283 7335.

estelle.walters@pwc.com

For assistance or advice please contact one of our Legal Entity Compliance specialists.

Windhoek

344 Independence Ave
Telephone Number: +264 (61) 284 1000

Walvis Bay

2nd Floor, Nedbank Building, Sam Nujoma Ave
Telephone Number: +264 (64) 217 700

Stefan Hugo

stefan.hugo@pwc.com
Telephone Number: +264 (61) 284 1102

Ansie Rossouw (Walvis Bay)

ansie.rossouw@pwc.com
Telephone Number: +264 (67) 217 720

Estelle Walters (Windhoek)

estelle.walters@pwc.com
Telephone Number: +264 (61) 284 1208

