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**BOTSWANA**



## SECTION 1: COUNTRY OVERVIEW

### 1.1 GENERAL INFORMATION

Capital:	Gaborone
Population:	2.4 million
Currency of government (official) fees:	Pula (BWP, P)
Language for filing IP applications:	English
GDP per capita:	6.71 (World Bank 2020)
Human Development Index:	0.41 (World Bank 2020)
Main exports:	Diamonds, copper, nickel, soda ash, beef and textiles.
Main imports:	Foodstuffs, machinery, electrical goods, transport equipment, textiles, fuel and petroleum products, wood and paper products, metals and metal products.

### 1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

Botswana is a contracting state to the following international legal instruments:

ARIPO <sup>(1)</sup>, both the Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs;

- Berne Convention for the Protection of Literary and Artistic Works;
- Hague Agreement Concerning the International Registration of Industrial Designs
- Madrid Protocol for the International Registration of Trade Marks;
- Paris Convention for the Protection of Industrial Property;
- Patent Cooperation Treaty (PCT);
- TRIPS <sup>(2)</sup> Agreement
- WIPO <sup>(3)</sup> Copyright Treaty
- WIPO Performances and Phonograms Treaty.

Most of Botswana's IP laws are TRIPS-compliant although, in practice, the level of implementation may be different from other countries. This may have an impact on the effectiveness of some IP enforcement issues.

<sup>1</sup> ARIPO: the African Regional Intellectual Property Organization.

<sup>2</sup> TRIPS Agreement: Agreement on Trade-Related Aspects of Intellectual Property Rights the World Trade Organization (WTO).

<sup>3</sup> WIPO: World Intellectual Property Organization.

Botswana is not a member of the Nice Agreement <sup>(4)</sup>. However, its trade mark classification system is based on the Nice classification system.

### 1.3 REGIONAL AGREEMENTS

Botswana is a member of the following regional agreements:

- **AfCFTA** (the African Continental Free Trade Area)  
The AfCFTA Agreement includes a protocol on IP rights aiming to advance the effective protection and promotion of IP rights in Africa. Once this enters into force, it may have an impact on the future shape of Botswanan legislation.
- **SADC** (the Southern African Development Community)  
SADC has no regional IP agreements, protocols or registration systems in place. However, it has the SADC Industrialization Strategy and Roadmap (2015-2063) which includes a focus on promoting the use and enforcement of IP rights to encourage research and development and innovation amongst SADC countries.

### 1.4 LEGAL FRAMEWORK OF IP PROTECTION AVAILABLE IN BOTSWANA

The following IP protection is available in Botswana:

- 1) trade marks: national, regional (ARIPO) and international (Madrid);
- 2) patents: national and regional (ARIPO);
- 3) utility models: national and regional (ARIPO);
- 4) industrial designs: national and regional (ARIPO)
- 5) geographical Indications: national;
- 6) layout designs of integrated circuits: national;
- 7) traditional knowledge and handicrafts: national;
- 8) copyright and neighbouring rights: national.

### 1.5 IP REGISTRATION ROUTES

IP protection in Botswana can be secured at three levels: national, regional and international.

#### National

The eight types of IP mentioned above can be protected directly in Botswana through the Companies and Intellectual Property Authority (CIPA).

#### Regional

<sup>4</sup> Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

Botswana is a contracting party to ARIPO's Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs.

It is therefore possible to register trade marks, patents, utility models and industrial designs either nationally through CIPA or regionally, through ARIPO.

### International

Botswana is also a contracting party to the Madrid Protocol, the Hague Agreement and the Patent Cooperation Treaty (PCT). It is therefore possible to register international trade marks and designating Botswana through the Madrid System. More information is available at: <https://www.wipo.int/madrid/en/>.

Botswana is also a contracting party to the Hague System for the international registration of industrial design, which means that it is possible register industrial designs through the International Bureau directly in WIPO.

**Choosing a suitable registration route:** trade marks, patents, utility models and industrial designs

A **national** route is suitable when trade mark protection is required in Botswana only.

A **regional** route through ARIPO is suitable when multi-country protection of the abovementioned IP rights is required.

An **international** route is advisable for trade mark and industrial design protection only, when protection is required in more countries than are covered by the ARIPO regional trade mark system or in the case of industrial designs, where international protection is required beyond the regional scope of protection that is available under the Harare Protocol.

### Useful information:

#### Professional representation

- Foreign applicants whose principal place of business is outside Botswana must appoint a local agent. (For local applicants this is optional.) CIPA accepts signed powers of attorney without any need for notarisation. However, you should check with your IP service provider in Botswana whether hard copies are necessary or scanned copies sent by email are acceptable. A list of ARIPO representatives (by country) is available at: <https://www.aripo.org/ip-agents/>.

#### Trade marks

- The ARIPO trade mark system's multiclass and state designation system closely resembles the Madrid system and for this reason is often referred to as a 'mini Madrid'.
- Botswana law has been amended to recognise both ARIPO and Madrid trade marks which, as a result, are given the same legal protection as national-route trade marks.
- Botswana is not a signatory to the Nice Agreement but uses the Nice Classification. Classifications based on the latest edition of Nice at the time of filing of an application are accepted.

## SECTION 2: OVERVIEW OF IP ENFORCEMENT

Botswana is a signatory of the WTO's TRIPS Agreement and its laws are substantially TRIPS-compliant in terms of providing a legal framework for the protection and enforcement of IP rights.

CIPA is mandated by the Industrial Property Act and the Copyright and Neighbouring Rights Act to enforce compliance and bring IP infringers to justice.

In recent years in collaboration with Botswana Police, CIPA has increased anti-piracy campaigns and raids of counterfeit goods in different locations around the country.

CIPA engages constantly with other stakeholders who have a role to play in combating IP infringements. These include Interpol, border officials, customs officials, the legal profession, the Department of Trade and Consumer Affairs, retailers and the general public.

Despite the CIPA and State efforts to curb IP infringement, rights holders must play a significant role in policing the use of their IP in Botswana. They must constantly check that the industrial and commercial markets in which they sell their goods or services take appropriate action against the infringement of their IP rights by competitors, retailers or street vendors. Tswana Law entitles rights holders to take civil action against infringers to recover their lost revenue and/or to have the infringing products destroyed.

For copyrights, the Copyright and Neighbouring Rights Act provides for conservatory measures that seek to prevent infringements and also to preserve relevant evidence related to an alleged infringement. In addition, the Act empowers the police to conduct searches of premises where it is suspected that infringing goods are concealed, and to seize any offending goods. Civil remedies include court injunctions, confiscation of offending goods and payment of damages to the rights holder for any economic damage suffered because of an infringement of their rights. Criminal sanctions include the imposition of substantial fines and the possibility of imprisonment. A copyright owner is expected to 'police' their work and take action against infringers of their rights. That means that the rights holder should initiate action such as reporting infringements to the police or customs (in the case of the importation of infringing goods) and also seek the intervention of the courts to fight third parties who infringe their rights.

## SECTION 3: TYPES OF AVAILABLE IP PROTECTION

### 3.1 TRADE MARKS

National, regional, and international trade marks can be registered in Botswana as explained below.

#### Benefits of registering a trade mark

- A registered trade mark gives the owner exclusive rights to use it to market their products and services; it gives the owner protection against others using the same mark or a similar mark without authorisation.
- In the long run, a well-maintained trade mark can build the owner's brand and

become an asset to their organisation. This can enable them to expand their business by licensing it to others, franchising or obtaining finance.

### 3.1.1 Who can register a trade mark?

A natural person, a company or any other entity can apply to register a trade mark.

However, a person who does not have their place of business in Botswana needs a professional representative.

### 3.1.2 What are the registration requirements?

A trade mark application must contain the following:

- an application letter containing name, nationality and address of the applicant; or full name (as on the Certificate of Incorporation) and address of the company;
- a completed Application for Registration of a Trademark (Form 11) and payment of the prescribed application fee;
- a list of the goods and/or services, based on the Nice Classification;
- 4 printouts of the trade mark;
- a certified copy of the priority document, if applicable;
- a signed power of attorney if the applicant is represented; notarisation is not required;
- the prescribed application fee;
- for publication: a letter requesting publication of the application in the Journal and the prescribed fee;
- for registration: a letter requesting registration and the prescribed fee.

### 3.1.3 What qualifies for registration?

A trade mark is any word, phrase, symbol, design, shape, group of letters or numbers, or combination of these, used by a company as its brand or logo. Consumers can rely on trade marks to help them distinguish between different goods in the marketplace and to help them identify brands they are loyal to. An organisation's logo and slogan, a T-shirt brand, a family symbol, the name of an event or festival are some of the things that can be registered as trade marks.

### 3.1.4 What cannot be registered?

A trade mark cannot be registered if it:

- is incapable of distinguishing the goods or services applied for;
- contains false indications, is deceptive or is likely to deceive or mislead the public or cause confusion;
- is contrary to law, public order or morality;
- is likely to cause confusion with an earlier registered trade mark or pending application;
- constitutes a name or likeness of individuals without the authorisation of such individuals;

- contains a representation of the head of state of any foreign state, or any colourable imitation thereof;
- contains a likeness to a specific armorial bearing, flag emblem;
- contains a title or abbreviation of any international intergovernmental organisation;
- consists of or contains the Olympic symbol;
- may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service;
- consists of a mark, sign or indication which has become customary in the current language or in the bona fide and established practices of the trade in respect of the goods or services for which registration is sought;
- consists of a sign that consists exclusively of:
  - (i) the shape which results from the nature of the goods themselves,
  - (ii) the shape of goods which is necessary to obtain a technical result, or
  - (iii) the shape which gives substantial inherent value to the goods.

### 3.1.5 Where can I file an application?

- Companies and Intellectual Property Authority (CIPA)
- ARIPO, for regional marks
- country designation through the International Bureau (WIPO).

### 3.1.6 How much does it cost?

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs

An applicant can expect the cost of registering a trade mark to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances that may increase the costs apply.

Description of Process/ Service	Fee (application by individuals or small entities) (BWP)	Fee (application by bodies other than small entities) (BWP)
Application to register a black and white trade mark in one class	150	300
Application to registration a coloured mark in one class	180	360
Application to register a trade mark: each additional class	30	60
Publication	90	180
Registration	180	360
Renewal	120 + 40 per additional class	240 + 80 per additional class

### 3.1.7 How long does registration take?

The trade mark registration process takes 15-18 months from the filing date to complete, assuming that there are no unusual delays and no oppositions. This includes an opposition period of 3 months.

### 3.1.8 What is the duration of protection?

10 years from the filing date, renewable.

## 3.2 PATENTS

### Botswana Patent Registrations

National and regional (ARIPO) patents can be registered in Botswana in the following ways.

#### National

- at CIPA.

#### Regional

- for the Harare Protocol, through ARIPO. ARIPO has 20 member states: Botswana, aSwatini (formerly Swaziland), The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO patent application. ARIPO's designation system allows an applicant to choose one, some or all of the

remaining 18 member states in a patent application. It is therefore also possible to file an ARIPO patent application in which Botswana (or any other member state) is designated to achieve national patent protection but through a regional registration system.

### Choosing between a national or regional patent registration for Botswana

The decision about whether to register a patent in Botswana through the national or ARIPO route is usually guided by the following considerations:

- **whether substantive examination is required or not:** although CIPA carries out substantive examination of patent applications, the Industrial Property Act allows it to outsource examination to other bodies which might result in delays and, therefore, a decision not to use the national route;
- **whether patent protection is required in Botswana only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **cost-effectiveness:** ARIPO's centralised regional patent registration system is usually considered to be more cost-effective than a national patent registration approach.

### Choosing between registration routes

Most patent applications for Botswana are registered through ARIPO because it allows applicants to designate more than one country. It is more cost-effective to file a single application in ARIPO to gain patent coverage in two or more ARIPO member states.

### Choosing a patent filing route

Botswana is a member of the PCT. Patent applications for both the CIPA and ARIPO routes for Botswana can also be filed through the PCT. However, the PCT provides a patent filing rather than a patent registration route.

### National (CIPA) Patents

#### 3.2.1 Who can register a patent?

An inventor (or successor in title) or an assignee of an invention can apply to register a patent.

#### 3.2.2 What are the registration requirements?

A patent application must contain the following:

- a request on the prescribed form;
- the patent title, abstract, description, claims and drawings;
- the applicant's details including full name, nationality, legal status and physical address or, if it is a company, its Certificate of Incorporation;
- the Deed of Assignment, if the applicant is not the inventor;
- a certified copy of the priority document, if applicable;

- the prescribed application fees;
- when the patent is accepted: a letter of acceptance together with the publication and grant fees.

### 3.2.3 What qualifies for registration?

A patent must meet the following requirements:

- **novelty** which must be absolute novelty in that the invention must be a new characteristic which is not known in the body of existing knowledge in its technical field. It must not be anticipated by prior art;
- **inventive step** which means that, having regard to prior art, the invention is not obvious to a person skilled in the art;
- **susceptible of industrial applicability** in that it can be used in any kind of industry, including agriculture, and
- **patentable invention under national patent law.**  
Unregistrable patents in Botswana are those related to the treatment of humans or animals or to pharmaceutical inventions. These inventions are not patentable to avoid undue restrictions to access to medical care and medicines by people or animals in need.

### 3.2.4 What cannot be registered?

The following inventions cannot be patented:

- a discovery of a plant, animal, microorganism or substance as found in nature, including the human body;
- a scientific theory or mathematical method;
- a literary, dramatic, musical or artistic work or other aesthetic creation;
- a scheme, rule or method for doing business, performing mental acts or playing a game;
- methods for the treatment of the human or animal body by surgery or therapy, including diagnostic methods practised in relation to them, except products for use in any such methods
- an invention whose commercial exploitation is necessary to protect public order or morality, including the protection of human or animal health, plant life or to avoid prejudice to the environment;
- plants and animals other than microorganisms;
- essentially biological processes for the production of plants or animals.

### 3.2.5 Where can I file an application?

**National** applications, non-Convention, Convention and PCT national phase applications must be filed at CIPA.

**Regional** applications can be filed at CIPA or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

### 3.2.6 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a CIPA patent

An applicant can expect the cost of registering a patent to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
Application and publication fees	150	300
Each divisional application (Form 1) fee	150	300
Grant and publication fees	150	300

#### ARIPO-route patent registration fees

Fees must be paid through ARIPO and in USD if an applicant chooses to register a patent for Botswana using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Fees that are required at the stage of filing an application as follows:

Type of Fee	ARIPO Fee USD
Application fee, regardless of the number of states designated in the application	232
State designation fee	85 per state (multiplied by the number of designated states)

Type of Fee	ARIPO Fee USD
Mandatory annuity fee: for PCT-based applications, the first ARIPO annuity fee will usually be due and must be paid with the application fee	50 per state (multiplied by the number of designated states)
Total fees, <b>assuming only Botswana is designated</b> and payment of first annuity fee	317
Total fees, <b>assuming all 18 Harare Protocol states, including Botswana, are designated</b> and payment of first annuity fee	2 662

#### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### 3.2.7 How long does registration take?

**National** patent applications are examined substantively in Botswana after they have been formally examined by CIPA. Substantive examination is completed on average within 3 years from the filing date of the application. If the applicant does not request the substantive examination within the 3 years, the application is deemed to have been abandoned.

**Regional**-route Botswana applications are substantively examined by ARIPO and take 3-4 months on average to complete registration, assuming that there are no objections.

#### 3.2.8 What is the duration of protection?

Protection lasts 20 years from the filing date, subject to the payment of annual maintenance fees.

#### 3.2.9 When are renewal fees paid?

##### National patents

Renewal fees are paid from the second anniversary of the filing date up to the 20th year. Late payment is possible, with a corresponding surcharge, within a grace period of 6 months after the due date.

##### Annuities

The following government (official) fees are currently applicable:

Annuity Year	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
1	30	60
2	120	240
3	150	300
4	170	340
5	200	400
6	220	440
7	240	480
8	270	540
9	290	580
10	320	640
11	340	680
12	360	720
13	390	780
14	410	820
15	440	880
16	460	920
17	480	960
18	510	1020
19		1060
Surcharge for late payment of annual fees	50	100

#### ARIPO-route Botswana patents

Renewal fees are payable up to the 19th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

ARIPO fees are payable **per designated state**.

The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fee (USD)
1 (NB: Due the second year after the filing date)	50
2	70
3	90
4	110
5	130
6	150
7	170

Annuity Year	ARIPO Fee (USD)
8	190
9	210
10	230
11	250
12	270
13	290
14	310
15	330
16	380
17	430
18	480
19	530
Late renewal fees consist of 2 parts:	
i. <b>Surcharge</b> for late payment of annual maintenance fee	100
ii. <b>Penalty fee</b> for each month or fraction of a month for which the fees remain unpaid	50

### 3.3 UTILITY MODELS

In some jurisdictions utility models are referred to as ‘petty patents’ because they are similar to patents but require less stringent conditions for registration and are registered for a shorter term than a conventional patent.

#### Botswana Utility Model Registrations

National and regional (ARIPO) utility models can be registered in Botswana in the following ways.

##### National

- at CIPA.

##### Regional

- for the Harare Protocol, through ARIPO.

ARIPO has 20 member states: Botswana, Eswatini (formerly Swaziland), The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO utility model application. ARIPO’s designation system allows an applicant to choose one, some or all of the remaining 18 member states in a utility model application. It is therefore also possible to

file an ARIPO utility model application in which Botswana or any other country is designated to achieve national utility model protection but through a regional registration system. However, it is advisable to ensure that utility model protection is available in each state that is designated because it is doubtful that it would be possible to enforce rights in a designated state that actually does not provide utility model protection in its national laws.

Choosing between a national or regional utility model registration for Botswana

The decision about whether to register a utility model in Botswana through the national or ARIPO route is usually guided by the following considerations:

- **cost:** it may be more cost-effective to proceed through the national route if protection is required in Botswana only;
- **whether utility model protection is required in Botswana only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **duration of protection:** the duration of protection of a national utility model registration is 7 years, whereas it is 10 years for an ARIPO-registered utility model. This difference may influence preference for the ARIPO registration route.

Most utility model applications for Botswana are registered through ARIPO because it allows applicants to designate more than one country in a utility model application. It is more cost effective to file a single application in ARIPO to gain utility model coverage in two or more ARIPO member states.

#### National (CIPA) Utility Models

##### 3.3.1 Who can register?

An inventor or assignee of an invention can apply to register a utility model.

##### 3.3.2 What are the registration requirements?

A utility model application must contain the following:

- a request for registration (Form 1);
- full details of the applicant, including name(s), nationality and physical address;
- where the applicant is a company, full details of the company;
- patent title, abstract, description, claims and drawings;
- utility model title, abstract, description, claims and drawings;
- signed power of attorney if the applicant is represented; notarisation is not required;
- the Deed of Assignment, if the applicant is not the inventor;
- the prescribed application fee;
- when the utility model is accepted: a letter of acceptance together with the grant and publications fees.

At any time before the grant or rejection of a patent, an applicant may convert a patent application into a utility model application which will be given the filing date of the initial patent application.

For conversion, a request for conversion of the patent application must be submitted together with all the documents filed in the patent application. An application may not be converted more than once.

### 3.3.3 What qualifies for registration?

Under section 82(1) of the Industrial Property Act, a registrable utility model must meet the three following requirements:

- **novelty:** the invention must be a new characteristic and must not be anticipated by the prior art;
- **industrial applicability:** the invention must be useful in any kind of industry.

### 3.3.4 What cannot be registered?

The following inventions cannot be registered as utility models in Botswana:

- utility models related to the treatment of humans or animals or to pharmaceutical inventions. These inventions are not registrable to avoid undue restriction to access to medical care and medicines by people or animals in need.
- inventions whose commercial exploitation would be contrary to public policy or morality, public health and safety, and principles of humanity and environmental conservation;
- a discovery of a plant, animal, microorganism or substance as found in nature, including the human body;
- a scientific theory or mathematical method;
- a literary, dramatic, musical or artistic work or other aesthetic creation;
- a scheme, rule or method for doing business, performing mental acts or playing a game;
- presentations of information;
- software.

### 3.3.5 Where can I file an application?

**National** applications for utility models must be filed at CIPA.

**Regional** applications can be filed at CIPA or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings. If an applicant wishes to obtain a utility model instead of a patent in Botswana on the basis of an international application, this must be indicated in the international application when filed.

### 3.3.6 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a CIPA utility model

Unless objections and other special circumstances that may increase costs apply an applicant can expect to pay the following official fees to register a utility model in Botswana:

Type of Fee	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
Application and publication fees	90	180
Each divisional application (Form 1) fee	90	180
Grant and publication fees	150	300

#### ARIPO-route utility model registration fees

Fees must be paid through ARIPO if an applicant chooses to register a utility model in Botswana using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Application fees consist of three components, as follows:

Type of Fee	ARIPO Fee USD
Application fee, regardless of the number of states designated in the application	80
State designation fees	20 per state (multiplied by the number of designated states)
Mandatory annuity fees (per designated state): 1st year: BWP 20 2nd to 7th year: increases by BWP 5 Each year thereafter: increases by BWP 10	20 (1st year) per state multiplied by the number of designated states
Total fees, <b>assuming only Botswana is designated</b> and payment of 1st annuity fee	120

Type of Fee	ARIPO Fee USD
Total fees, <b>assuming all 18 Harare Protocol states, including Botswana, are designated</b> and payment of 1st annuity fee	800

#### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### 3.3.7 How long does registration take?

**National** utility model applications are examined substantively. The average time frame is 9-15 months. It is advisable to check applicable processing time frames before starting the registration process.

**Regional**-route filed CIPA applications are substantively examined by ARIPO and take longer than national utility model applications to reach registration. These applications can take 24-36 months to complete registration, assuming that only minimal official actions are needed and there are no objections.

#### 3.3.8 What is the duration of protection?

In Botswana, the duration of utility models is 7 years from the filing date. It is not renewable. ARIPO-registered utility models have a duration of 10 years from the filing date.

#### 3.3.9 When are renewal fees paid?

##### National Utility models

Renewal fees must be paid each year, starting one year after the filing date of the application or the grant of the utility model.

Late payment of the annual fees, with a corresponding surcharge, is possible within a grace period of 6 months after the due date.

##### Government (official) fees

The following government (official) fees are currently applicable:

Annuity Year	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
1	50	100
2	60	120
3	70	140
4	80	160
5	90	180
6	100	200
Surcharge for late payment of annual fees	50	100

#### ARIPO-route filed Botswana utility models

Renewal fees are payable up to the 10th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

ARIPO fees are payable per **designated state**.

The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fee (USD)
1 (NB: Due the second year after the filing date)	20
2	25
3	30
4	35
5	40
6	45
7	50
Each year thereafter	10
Late renewal fees consist of 2 parts:	
i. <b>Surcharge</b> for late payment of annual maintenance fee	30
ii. <b>Penalty fee</b> for every month or fraction of a month for which the fees remain unpaid	5

#### 3.4. INDUSTRIAL DESIGNS

Unlike South African law, in Botswana designs are registered without being classified as either aesthetic or functional designs.

### Botswana Industrial Design Registrations

National, regional (ARIPO) and international (WIPO/Hague System) industrial designs can be registered in Botswana in the following ways:

#### National

- at CIPA, see below.

#### Regional

- for the Harare Protocol, through ARIPO.

ARIPO has 20 member states: Botswana, eSwatini (formerly Swaziland) The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO industrial design application. ARIPO's designation system allows an applicant to choose one, some or all of the remaining 18 member states in an industrial design application.

It is therefore possible to file an ARIPO design application in which Botswana or any other country is designated to achieve national design protection but through a regional registration system.

#### International

##### Industrial Designs: Hague Agreement

Botswana is a signatory of the Hague Agreement (download list of Contracting Parties) which means it can be designated for purposes of registering an industrial design under the Hague System for the international registration of industrial designs. Read about the Hague System here.

- The Hague System Agreement lets applicants register an industrial design by filing a single application with International Bureau of WIPO,. This enables design owners to protect their designs with a minimum of formalities in multiple countries or regions. The Hague Agreement also simplifies managing an industrial design registration, since it is possible to record subsequent changes and renew the international registration through a single procedural step.
- International design applications may be filed with the International Bureau of WIPO, either directly or through the industrial property office of the Contracting Party of origin, if the law of that Contracting Party so permits or requires. In practice, however, virtually all international applications are filed online directly with the International Bureau of WIPO.
- The Hague Agreement is integrated into Botswana's national legal framework for the protection of industrial designs. As a result, an international design registration which designates Botswana enjoys the same force of law as a nationally registered industrial design.

### Choosing between a national or regional industrial design registration for Botswana

The decision about whether to register a design in Botswana through the national or ARIPO route

is usually guided by the following considerations:

- **whether design protection is required in Botswana only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **cost-effectiveness:** ARIPO's centralised regional design registration system is usually considered to be more cost-effective than a national design registration approach;
- **time-effectiveness:** Botswana, like some other ARIPO member states, does not receive a lot of design applications to justify staff training and deployment into industrial design sections of the IP Office. As a result, in comparison to ARIPO, national offices tend to be considerably slower to process design applications. Time is usually of essence to proprietors because designs are often short-lived. As a result, time-conscious applicants usually tend to prefer to register their designs through the ARIPO route instead of the national route.

### Examination and novelty of designs for Botswana

Botswana does not carry out a substantive examination of design applications. Applications are examined as to compliance with formal requirements only. The examination is based on a relative statement of novelty.

Similarly, ARIPO carries out a formal examination of designs, but member states are given the opportunity to carry out a substantive examination if their national laws require it.

As there is no requirement for a substantive examination of designs under Botswanan law, only a formal examination is carried out.

### National (CIPA) Industrial Designs

#### 3.4.1 Who can register?

A creator or assignee of an industrial design can apply to register a design in Botswana.

It is possible for two or more persons or companies to jointly own and apply for the registration of an industrial design.

#### 3.4.2 What are the registration requirements?

A design application must contain the following documents:

- the applicant's full details, including full name, nationality, legal status, physical address and full company details if the applicant is a company;
- at least one graphical representation of the design;
- the signed Deed of Assignment of the design if the creator is not the applicant, with a certified English translation if the document is not in English;
- a Statement of Novelty (Distinctive Statement) which must not include any description of the use of the article or its features, or of its advantages or method of construction;
- the prescribed application fees;
- when an industrial design is accepted: a letter of an acceptance together with the registration and publication fees.

A design is not required to have any objectively noticeable degree of aesthetic quality.

The registration procedure is as follows:

- fill in Form 7 in duplicate and provide a covering letter requesting registration of the design;
- attach checklist containing list of supporting documents that accompany that application;
- include prescribed application fees;
- when an industrial design is accepted, you will be invited to pay the registration and publication fees;
- write a letter of acceptance of payment fees;
- after paying the registration and publication fees, you will be issued with a certificate.

### 3.4.3 What qualifies for registration?

An industrial design is registrable if it is new. For a creation to qualify for design registration it must clearly identify novel features of the design in terms of:

- shape;
- configuration;
- pattern and/or ornament.

Multiple design applications are possible in Botswana, provided that all the designs are embodied in a single set of articles and belong to the same class.

### 3.4.4 What cannot be registered?

The following cannot be registered:

- designs that are contrary to the law, public policy or morality;
- designs for articles that are primarily literary or artistic in character, such as paintings, sculptures, drawings, enamelling, engravings, embroidery, photographs, sculptures, architecture and works of artistic craftsmanship;
- designs consisting solely of a change in the colour of already known designs;
- designs whose features correspond to or are determined by functions to be performed by the products.

### 3.4.5 Where can I file an application?

**National**-route design applications must be filed at CIPA.

**Regional**-route design applications can be filed at CIPA or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO for Botswana designs can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

### 3.4.6 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a CIPA industrial design

An applicant can expect the cost of registering an industrial design to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances which increase costs apply.

Type of Fee	CIPA Fee (applications by individuals or small entities)	CIPA Fee (applications by bodies other than small entities)
Application and publication fees	40	80
Application fees for each additional design included in the same application	20	40
Registration and publication fees	75	150

#### ARIPO-route design registration fees

These fees are paid through ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Application fees, are as follows:

Type of Fee	ARIPO Fee (USD)
Application fees, regardless of the number of states designated in an application	40
State designation fees	10 per state (multiplied by the number of designated states)
Total fees, <b>assuming that only Botswana is designated</b> in the application	50

Type of Fee	ARIPO Fee (USD)
Total fees, <b>assuming that all 18 Harare Protocol states, including Botswana, are designated</b> in the application	220

#### Note on professional fees

Professional fees vary and it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### 3.4.7 How long does registration take?

National-route applications usually take 15-18 months to complete registration. The deadline to file missing documents is 2 months from the date of notification.

Regional-route applications usually take 8 -12 months to complete registration. This includes a period of 6 months for states to examine and decide if a design will have legal effect in their territories after ARIPO has issued them with a notice of intention to register a design.

#### 3.4.8 What is the duration of protection?

A CIPA industrial design has an initial duration of 5 years from the filing date, with the possibility of two further consecutive 5-year terms, a total of 15 years.

ARIPO-route design registrations are valid for 10 years, with no possibility of extension.

#### 3.4.9 When are renewal fees paid?

Renewal fees must be paid within 6 months from the due date.

The renewal fees are currently BWP 80 for the first renewal of you choose to extend the duration of the design from 5 to 10 years and BWP 80 for the second and final renewal if you choose to extend the duration from 10 to 15 years.

In ARIPO, renewal fees are payable within 6 months before the registration period expires. Late payment of the renewal fees is possible within a grace period of 6 months after the due date.

ARIPO-registered design renewal fees

Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

ARIPO fees are payable per designated state. The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fee
1	10
2	12
3	14
4	16

Annuity Year	ARIPO Fee
5	18
6	20
7	24
8	28
9	32
Late renewal fees consist of 2 parts:	
i. <b>Surcharge</b> for late payment of annual maintenance fee	15
ii. <b>Penalty fee</b> for each month or fraction of a month for which the fees remain unpaid	2

#### Professional services renewal fees

These are usually payable as a flat-rate fee per annuity payment, regardless of the number of designated states. It is advisable to compare the fees of different IP agents.

#### International Industrial Designs:

These are registrable under the Hague System through the International Bureau of WIPO. More information is available through this link:

[https://www.wipo.int/treaties/en/registration/hague/summary\\_hague.html](https://www.wipo.int/treaties/en/registration/hague/summary_hague.html)

- The Hague System Agreement allows applicants to register an industrial design by filing a single application with the International Bureau of WIPO, enabling design owners to protect their designs with a minimum of formalities in multiple countries or regions. The Hague Agreement also simplifies managing an industrial design registration, since it is possible to record subsequent changes and renew the international registration through a single procedural step.

### 3.5. GEOGRAPHICAL INDICATIONS (GIs)

#### About GIs in Botswana

GIs are registrable in Botswana under Part VIII of the Industrial Property Act of 2010 and the Industrial Property Regulations of 2012.

GIs are registered through CIPA. Currently, there is no regional or international registration system through which GIs can be registered for Botswana.

#### 3.5.1 Who can register?

The following can apply for the registration of a GI:

- a person who sells or who manufactures, imports or exports for sale a product to which the GI is applied or is to be applied;

- a person who, in the course of business, consumes or uses a product to which the GI is applied or is to be applied;
- any organisation established to represent or further the interests of the persons referred to above.

A GI application can be made individually by any of the above or jointly with others.

### 3.5.2 Can European GIs be registered?

European GIs do not appear to be registrable under the current national law. For information about the protection of the European GIs in African countries, the Organization for an International Geographical Indications Network should be consulted at: <https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html>

### 3.5.3 What are the registration requirements?

An application for the registration of a GI must include:

- a request for the registration of the geographical indication (Form 17);
- 4 durable graphical representations of the geographical indication;
- a specification containing:
  - (i) the name of the product to which the geographical indication applies;
  - (ii) a description of the product, including its raw materials, if appropriate, and its principal physical, chemical, microbiological or organoleptic characteristics;
  - (iii) the definition of the geographical area from which the designated product originates.
- evidence that the product originates from the defined geographical area;
- a description of the method of obtaining or producing the product including, as appropriate, the traditional local methods, and information concerning packaging if it is claimed that the packaging is relevant to the claimed characteristics or required to safeguard the quality or ensure the genuine origin of the product;
- details confirming the link between the quality or characteristics of the product and its geographical origin;
- the name and address of the authority or body responsible for certifying compliance with the specifications
- the applicant's full name, legal status and physical address;
- a signed power of attorney, if the applicant is represented; notarisation is not required;
- a certified copy of the priority document, if priority is claimed;
- the prescribed government (official) fees.

### 3.5.4 What qualifies for registration?

To be registrable, a GI must be capable of distinguishing goods originating from a particular territory, region or locality, or possess characteristics attributed to the territory, region or locality from which the goods come.

### 3.5.5 What cannot be registered?

A geographical indication cannot be registered if it is:

- incapable of distinguishing goods originating from a particular territory, region or locality, or does not possess characteristics attributed to the territory, region or locality from which the goods come;
- is contrary to public order or morality;
- is likely to mislead the public or those in the trade, as regards the geographical origin of the goods concerned, or their nature or characteristics;
- in respect to goods, identical with the term usually used in common language as the common name for such goods in Botswana;
- not protected, has ceased to be protected, or has fallen into disuse in its country of origin.

### 3.5.6 Where can I file an application?

Applications for registration must be submitted to CIPA.

### 3.5.7 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a CIPA Geographical Indication

An applicant can expect the cost of registering a GI to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
Application fee	250	500
Publication fee	90	180
Registration fee	180	360

### 3.5.8 How long does registration take?

Unless substantive objections are raised or there are unusual delays, a GI application takes on average 15 months to complete registration. This includes an opposition period of 3 months.

### 3.5.9 What is the duration of protection?

The term of a GI registration in Botswana is 10 years. It is not renewable.

## 3.6. LAYOUT DESIGNS OF INTEGRATED CIRCUITS

### About Layout Designs of Integrated Circuits in Botswana

Layout designs of integrated circuits ('layout designs') are registrable in Botswana under Part V of the Industrial Property Act of 2010 and the Industrial Property Regulations of 2012.

Currently, there is no regional or international registration system through which layout designs can be registered for Botswana.

### 3.6.1 Who can register?

An application for registration of a layout design can be made by, or on behalf of, the following:

- a person claiming to be the proprietor of the design;
- a person claiming to be the proprietor's assignee or successor in title.

### 3.6.2 What are the registration requirements?

An application for the registration of a layout design must include:

- A request for registration (Form 11), including the applicant's full name, address and nationality;
- a drawing of the layout design, not exceeding 20 cm x 20 cm in black ink;
- 4 graphic representations of the layout design, not exceeding 10 cm x 20 cm, affixed to four A4-size sheets cardboard;
- a signed power of attorney, if the applicant is represented;
- a Deed of Assignment if the applicant is not the creator of the layout design;
- the prescribed application fees.

### 3.6.3 What qualifies for registration?

A layout design, is registrable if:

- it is original, which means that it is the result of its creator's own intellectual effort and is not commonplace among creators of layout designs and manufacturers of integrated circuits at the time of its creation; and
- it has not yet been exploited commercially anywhere in the world or has not been exploited commercially anywhere in the world for more than 2 years prior to the application for its registration.

A layout design consisting of a combination of elements and interconnections that are commonplace is only registrable if the combination, taken as a whole is considered original.

### 3.6.4 What cannot be registered?

Any layout designs whose use would be contrary to the law, public policy or morality is not registrable.

A layout design that is not original and has been exploited commercially for more than 2 years prior to the application for its registration is also not registrable.

### 3.6.5 Where can I file an application?

An application on the prescribed form must be submitted to the Registrar of CIPA in Botswana.

### 3.6.6 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a layout design

An applicant can expect the cost of registering a layout design to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
Application fees	120	240
Amendment fee where the amendment of the application is at the applicant's instance	30	60
Registration and publication	90	180

### 3.6.7 How long does registration take?

Unless substantive objections are raised or there are unusual delays, an integrated circuit layout design takes 15-18 months to complete registration. This includes an opposition period of 3 months.

### 3.6.8 What is the duration of protection?

The duration of an integrated circuit layout design registration in Botswana is 10 years.

### 3.6.9 When are renewal fees paid?

There are no prescribed renewal fees that must be paid after the 10-year registration term.

## 3.7. TRADITIONAL KNOWLEDGE AND HANDICRAFTS

Although most people think that Botswana's contemporary art scene is limited to baskets and pottery, this is not true. These two craft forms dominate sales but there are also immensely talented painters and sculptors producing some dynamic artwork.

### About traditional knowledge and handicrafts in Botswana

Traditional knowledge and handicrafts are registrable in Botswana under Part IX of the Industrial Property Act of 2010 and the Industrial Property Regulations of 2012.

Traditional knowledge and handicrafts are registered at CIPA.

ARIPO provides a regional framework for the registration of traditional knowledge in ARIPO member states, including Botswana, but the registration system has so far been significantly underutilised, with no applications recorded at present.

### 3.7.1 Who can register?

Applicants for the registration of traditional knowledge can be individuals but are usually a community acting through a duly appointed community representative.

An individual creator of a handicraft can apply to register a handicraft.

### 3.7.2 What qualifies for registration?

**Traditional knowledge:** to qualify for registration, the subject matter must constitute 'traditional knowledge', which has a broad definition. WIPO defines it as '*a living body of knowledge passed on from generation to generation within a community*'.

It consists of know-how, skills and practices developed within a community, forming part of its cultural identity and passed through generations. Confirmation by a community representative that the subject matter for which registration is applied constitutes traditional knowledge is therefore essential.

**Handicrafts:** a creator of a handicraft must be able to demonstrate that some mental effort and skill was applied to the creation of the handicraft regardless of its aesthetic appeal or otherwise.

### 3.7.3 What are the registration requirements?

#### Traditional knowledge:

A request for registration (Form 20), containing the following information:

- a description of the traditional knowledge for which registration is requested, which can be art, science, traditional medicine or other forms of information that is specific to a particular community;
- the applicant's full details, including full name and physical address;
- the community representative's full details, where the application is submitted on behalf of a community;
- a signed power of attorney, if the applicant is represented; notarisation is not required;
- the prescribed government (official) fees.

#### Handicrafts

- a request for registration (Form 21), containing the following information:
  - o a description and a representation in colour of the handicraft for which registration is requested, which must include the following information about the handicraft:
    - i) general characteristics of its use;
    - ii) method of making;
    - iii) preparation and use of raw materials;
    - iv) general description of the history and evolution of the handicraft;
- the applicant's full details, including full name and physical address;
- a signed power of attorney, if the applicant is represented; notarisation is not required;
- the prescribed government (official) fees.

### 3.7.4 What cannot be registered?

Traditional knowledge cannot be registered if its subject matter does not fall within the definition of what constitutes traditional knowledge 'subject matter' or if it cannot be established as identifiable with a specific community or culture of Botswana.

Handicrafts cannot be registered if they are contrary to law, public order or morality.

### 3.7.5 Where can I file an application?

An application for registration must be submitted to CIPA.

### 3.7.6 How much does it cost?

#### National (CIPA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Botswana pula). Application forms and information on fees are available through this link: <https://www.cipa.co.bw>

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

#### Likely overall registration costs for a CIPA industrial design

An applicant can expect the cost of registering a GI to be in the region of the amounts set out in the table below (in BWP), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	CIPA Fee (applications by individuals or small entities) (BWP)	CIPA Fee (applications by bodies other than small entities) (BWP)
Registration and publication fees	120	250

### 3.7.7 How long does registration take?

Unless there are unusual delays, an application for the registration of traditional knowledge or a handicraft takes 6-12 months from the filing date of the application.

### 3.7.8 What is the duration of protection?

The duration of protection of traditional knowledge and handicrafts in Botswana appears to be aligned with the provisions of ARIPO's Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore, that is 25 years, not renewable.

## 3.8. COPYRIGHT AND NEIGHBOURING RIGHTS

Botswana has many famous traditional dance styles, including the borankana, phathisi, setapa, tsutsube, ndazola, Kalanga hosana, chesa, huru, mokomoto, selete and the more popular San or Basarwa dances. These dance styles are unique, rhythmic, and expressive. Apart from for entertainment, they are also used for healing and storytelling.

#### About Copyright and Neighbouring Rights in Botswana

Botswana has a dedicated law for the protection of copyright and neighbouring rights, namely the Copyright And Neighbouring Rights Act [Chapter 68:02].

Botswana is also a signatory to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

#### 3.8.1 Can I register?

Copyright is not a registrable right in Botswana. It exists automatically when any original work is created in one of the categories that is protected by the Copyright And Neighbouring Rights Act.

Botswana is a member ARIPO which is currently considering the possibility of creating a voluntary copyright registration system for its Member States. It remains to be seen if this system will become a reality.

#### 3.8.2 What qualifies for protection?

Any original work in the categories listed below qualifies for protection:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) audiovisual works;
- (e) sound recordings;
- (f) broadcasts;
- (g) programme-carrying signals;
- (h) published editions.

#### 3.8.3 What cannot be protected?

Any work whose subject matter does not qualify for legal protection.

Any work whose author is not Tswana by:

- 1) citizenship,
- 2) domicile, or
- 3) by virtue of being incorporated in Botswana.

Any work that is contrary to law, public order or morality.

### 3.8.4 What are the requirements for legal protection?

The original work must be in one of the following categories:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) audiovisual works;
- (e) sound recordings;
- (f) broadcasts;
- (g) programme-carrying signals;
- (h) published editions.

### 3.8.5 What are examples of acts permitted in relation to copyright works?

Permitted acts that do not infringe copyright include:

- fair use: copyright in a work is not infringed by any fair dealing for the purposes of research or private study by the person using the work.
- fair use for purposes of criticism, review or news reporting;
- educational use;
- copies made to replace or conserve library or archival copies of works;
- use of anonymous or pseudonymous works, subject to conditions;
- use of work for parliamentary or judicial proceedings or inquiries;
- quotations from copyright works;
- public readings and recitations.

### 3.8.6 What acts are not permitted in relation to copyright works?

Unpermitted/restricted acts include:

- reproducing the work;
- publishing the work;
- importing the work into Botswana or exporting it from Botswana, otherwise than for personal and private use;
- causing the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast and is operated by the original broadcaster;
- making an adaptation of the work.

### 3.8.7 What is the duration of protection?

The duration of copyright protection (is as follows):

- **literary works:** the lifetime of the author (or last surviving author in the case of co-authored works) plus 50 years;
- **performers and recording rights:** 50 years from the end of the calendar year in which the performance took place;

- **an audiovisual work, a collective work, a photograph, or a computer program:** 50 years from the end of the year in which the work was made available to the public with the consent of the owner of the copyright or, failing such an event, 50 years from the making of the work or 50 years from the end of the year in which the work was made;
- **a sound recording:** 50 years from the end of the year in which the recording was first published;
- **a broadcast:** 50 years from the end of the year in which the broadcast first took place;
- **a programme-carrying signal:** 50 years from the end of the year in which the signal was first emitted to a satellite;
- **a published edition:** 50 years from the end of the year in which the edition was first published;
- **a work of applied art:** 25 years from the making of the work.

### 3.8.8 Can I renew copyright after its term of protection expires?

Copyright cannot be renewed in Botswana once its term has expired. The work lapses into the public domain at the end of the term of protection.

#### Links to legislation:

ARIPO: <https://www.aripo.org/member-states-laws/>

Traditional Knowledge laws in Botswana:

[https://www.wipo.int/tk/en/databases/tklaws/articles/article\\_0001.html](https://www.wipo.int/tk/en/databases/tklaws/articles/article_0001.html)

#### Links to institutions:

AfCFTA – Africa Trade House, Ambassadorial Enclave, Liberia Road, Ridge, Accra Ghana: <https://au.int/en/cfta>

ARIPO – African Regional Intellectual Property Organization: <https://www.aripo.org/>

CIPA – Companies and Intellectual Property Authority: <https://www.cipa.co.bw/>

SADC – Southern African Development Community: <https://www.sadc.int/>

