

## Botswana

**Country:** [Botswana](#) [1]

**EIA Law:** Environmental Assessment Act, 2011

**Law Link:** [Link](#) [2]

**EIA Regulations:** Environmental Assessment Regulations, 2012

**Regulations Link:** [Link](#) [3]

**Projects Requiring EIA:** Government projects

Private Projects

**Abridged Assessments:** Yes

**Assessment Detail:** "The competent authority may upon receipt of an application [to obtain authorisation for a proposed activity] or at its own discretion request the developer to submit an environmental management plan." EIA Act, sec. 6(5). The purpose of the environmental management plan is described further in the EIA Regulations: "An EMP will usually be necessary where the proposed project does not qualify for the undertaking of a detailed environmental impact assessment study, but by virtue of the associated impacts would require the development of an environmental management programme to manage the implementation of the project. The EMP may also be required for projects which were implemented prior to the enactment of the EIA legislation but would have otherwise required a detailed assessment prior to their implementation." EIA Regulations, Schedule 2 - Form B.

**Best Practices in Lieu of EIA:** No

**Who Conducts Screening:** Government

**Who Conducts Screening Detail:** "Where the competent authority determines that the proposed activity is likely to have a significant adverse environmental impact, it shall require that such activity undergo an environmental impact assessment or a strategic environmental assessment, the costs of which shall be borne by the developer." EIA Act, sec. 9(1)

**Criteria for Screening:** List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

Possible impact to, or adjacent to, a protected area

Other

**Criteria for Screening Detail:** EIA Regulations, Schedule 1 (listing activities that require preparation of EIA; requiring EIA for projects within 2km of "environmentally sensitive" areas; requiring EIA for projects that may cause a public outcry or cause displacement of people). See also EIA Act, sec. 9(1) ("Where the competent authority determines that the proposed activity is likely to have a significant adverse environmental impact, it shall require that such activity undergo an environmental impact assessment. . . .")

**Who Prepares EIA:** Project Proponent (with or without contractor)

**Who Prepares EIA Detail:** "Where the competent authority determines that an environmental impact assessment, environmental management plan or a strategic environmental assessment be made . . . the developer shall, before undertaking or implementing the activity, engage a practitioner to prepare a statement which shall be submitted by the developer to the competent authority within the period of time prescribed in the approved terms of reference." EIA Act, sec. 9(3)

**Who Pays for EIA:** Project Proponent

**Who Pays for EIA Detail:** "Where the competent authority determines that the proposed activity is likely to have a significant adverse environmental impact, it shall require that such activity undergo an environmental impact assessment or a strategic environmental assessment, the costs of which shall be borne by the developer." EIA Act, sec. 9(1)

**EIA Contractor Qualifications:** Yes

**EIA Contractor Qualification Detail:** "A person shall not practise as an Environmental Impact Assessment Practitioner unless such person is registered and certified under this Act." EIA Act, sec. 37. The Act establishes an Environmental Assessment Practitioners Board, which is responsible for "establishing criteria (education, professional experience, competency and continued professional development requirements) and procedures for registration of [EIA] practitioners. . . ." EIA Act, sec. 24. See also EIA Regulations, Schedule 4, Form B

**Conflict of Interest:** Yes

**Conflict of Interest Detail:** "A practitioner shall not engage in a consultancy where the engagement in the consultancy may give rise to a conflict of interest." EIA Act, sec. 64(1). Conflicts of interest (or those likely to arise) must be disclosed to the Ministry. If the practitioner violates the conflict of interest provisions, he or she is subject to a fine and/or imprisonment of up to 3 months. EIA Act, sec. 64(3). "Environmental Assessment Practitioners will inform a prospective client or employer of any professional or personal interests which may impair the objectivity of their work." EIA Regulations, Schedule 4, Form F(vi).

**Terms of Reference:** Yes

**Terms of Reference Detail:** "Where, upon a consideration of all the information submitted by the applicant, the competent authority decides that an environmental impact assessment is required, the authority shall inform the applicant, in writing, to prepare terms of reference for the environmental impact assessment." EIA Act, sec. 8(1); see also sec. 2 (defining "terms of reference") and EIA Regulations, Schedule 2, Form D (describing required content of terms of reference document)

**Days for Decision Maker Review:** 60+

**Automatic Approval:** No

**Written Decision:** Yes

**Written Decision Detail:** EIA Act, sec. 12

**Authority to Impose Conditions:** Yes

**Authority to Impose Conditions Details:** "Where the competent authority's review of the statement is complete, the competent authority shall. . . grant authorisation to the developer, on such terms and conditions as the competent authority considers necessary." EIA Act, sec. 12(1)(a)

**Expiry of Decision:** Variable (specified in authorisation)

**Expiry of Decision Detail:** "An authorisation granted under [this Act] shall be valid for such period as may be stipulated therein and may be subject to renewal at the end of such period." EIA Act, sec. 14

**Financial Assurances or Bond:** No

**Financial Assurances Detail:** This requirement is not addressed in the EIA law or regulations

**Interdisciplinary Team:** No

**Interdisciplinary Team Detail:** This criteria is not addressed in the EIA law or regulations.

**Range of Alternatives:** Yes

**Range of Alternatives Detail:** EIA Regulations, Schedule 2, Form E(j) (describing minimum content of EIA document)

**No Action Alternative:** Yes

**No Action Alternative Detail:** EIA Regulations, Schedule 2, Form E (describing minimum content of EIA document)

**Type(s) of Impact Analysis:** Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Economic impacts

Other

**Mitigation:** Yes

**Mitigation Detail:** The requirement to include mitigation measures is described in detail in Schedule 2, Form E, subsection K of the EIA Regulations. The Form states, in part: "Feasible and cost-effective measures which will reduce potential environmentally significant impacts to acceptable levels should be proposed including capital and recurrent costs, and institutional and training requirements of those measures estimated. There should be clear responsibility for the proposed actions stated, timelines given for implementing the measures and an estimated cost provided. Mitigation is an encompassing term to denote actions that serve to avoid, reduce or compensate for adverse impacts and promote or increase the beneficial impacts of a project."

**Monitoring Plans:** Sometimes

**Monitoring Plans Detail:** "The competent authority may, in issuing an authorisation, prescribe, in writing, specific requirements for monitoring during and after implementation of the proposed activity, by the technical departments, local authorities and the developer." EIA Act, sec. 12(3); but see EIA Regulations, Schedule 2, Form E(m) ("The consulting team will, on the developer's behalf, design a monitoring plan that is workable. A monitoring scheme for any project is designed to, among other things, check the compliance of the activities of the project against set standards and regulations."). The Regulations suggest that monitoring plans are a required feature of the Botswana EIA process.

**Draft EIA Available:** No

**Public Notice of Final EIA:** Yes

**Public Notice of Final EIA Detail:** "Where the [environmental impact] statement complies with the requirements prescribed by the Minister, the competent authority shall. . . place, at the developer's expense, a notification in the Gazette and in a newspaper circulating at least once weekly using the official languages, for four consecutive weeks, inviting comments or objections from those persons who are most likely to be affected by the proposed activity." EIA Act, sec. 10(2)

**Final EIA Available:** Yes

**Final EIA Available Detail:** "(1) Any terms of reference, statement, report, decision or any other documents

referred to under this Act shall be a public document. (2) The competent authority shall maintain a register of public documents referred to under subsection (1), which shall be open for public inspection." EIA Act, sec. 62

**Final EIA Locations:** Agency or ministry office

**Availability of Reference Studies:** Yes

**Availability of Reference Studies Detail:** "(1) Any terms of reference, statement, report, decision or any other documents referred to under this Act shall be a public document. (2) The competent authority shall maintain a register of public documents referred to under subsection (1), which shall be open for public inspection." EIA Act, sec. 62

**Public Notice of Final Decision:** Yes

**Public Notice of Final Decision Detail:** "(1) Any terms of reference, statement, report, decision or any other documents referred to under this Act shall be a public document. (2) The competent authority shall maintain a register of public documents referred to under subsection (1), which shall be open for public inspection." EIA Act, sec. 62

**Public Scoping:** Yes

**Public Scoping Detail:** The EIA practitioner shall "hold[] meetings with the affected people or communities to explain the nature of the activity and its effects." EIA Act, sec. 7(2)(b); see also sec. 2 (defining "scoping")

**Public Review of TOR:** No

**Public Review of TOR Detail:** Although a scoping exercise is conducted prior to preparing the terms of reference, it does not appear from the Act or Regulations that members of the public have the opportunity to review or comment on the terms of reference before it is approved. See EIA Act, sec. 8 (terms of reference procedure)

**Public Participation Opportunities:** Scoping

Public Meetings and/or public hearings

Review of final EIA

**Public Meetings:** Sometimes

**Public Meetings Detail:** "The competent authority may hold a public hearing if — (a) after examining the statement, the competent authority is of the opinion that the activity is of such a nature that the public should have the opportunity to make submissions or comments at a public hearing; or (b) the public concern over the activity is that the activity may have a significant adverse impact on the environment." EIA Act, sec. 11(1)

**Public Input at Meeting:** Yes

**Public Input at Meeting Detail:** "The competent authority shall, in conducting a public hearing referred to in section 11 of the Act, invite comments from the public." EIA Regulations, sec. 9(1)

**Criteria to Hold Public Meeting:** The proposed project is controversial

Ministry or agency has discretion to decide whether to hold a meeting and/or hearing

**Days for Public to Review Final EIA:** 28 days

**Public Comments on Draft EIA Detail:** A draft EIA is not prepared.

**Public Comments on Final EIA:** Yes

**Public Comments on Final EIA Detail:** "Where the [environmental impact] statement complies with the requirements prescribed by the Minister, the competent authority shall. . . place, at the developer's expense, a notification in the Gazette and in a newspaper circulating at least once weekly using the official languages, for four consecutive weeks, inviting comments or objections from those persons who are most likely to be affected by the proposed activity." Section 10(2)(a) of the Act.

**Response to Public Comments:** Yes

**Response to Public Comments Detail:** "In assessing applications for an authorisation under this Act, and in making a decision as to whether it ought to issue or renew an authorisation under this Act, the competent authority shall take into account. . . the comments and objections of interested persons and the public." EIA Act, sec. 17, see also sec. 10(2)(b)

**Facilitation of Public Participation:** Yes

**Facilitation of Public Participation Detail:** The law contains two provisions that can be seen as promoting public participation from particular groups. First pertains to notice of the availability of the EIA for public comment. Notification must be published in the official Gazette and in a newspaper circulating at least once weekly using the official languages. The notice must include information describing: (i) nature and magnitude of the activity, (ii) location of the activity, (iii) anticipated environmental impact of the activity, and (iv) proposed mitigation measures to respond to the negative environmental impact. . . ." EIA Act, sec. 10(2)(a). The second provision pertains to the location of public hearings: "The public hearing shall be convened at a venue which is convenient and accessible to persons who are likely to be specifically affected by the proposed activity." EIA Regulations, sec. 9(3)

**Citizen Administrative Review:** Yes

**Citizen Administrative Review Detail:** The law contains two provisions that can be seen as promoting public participation from particular groups. First pertains to notice of the availability of the EIA for public comment. Notification must be published in the official Gazette and in a newspaper circulating at least once weekly using the

official languages. The notice must include information describing: (i) nature and magnitude of the activity, (ii) location of the activity, (iii) anticipated environmental impact of the activity, and (iv) proposed mitigation measures to respond to the negative environmental impact. . . ." EIA Act, sec. 10(2)(a). The second provision pertains to the location of public hearings: "The public hearing shall be convened at a venue which is convenient and accessible to persons who are likely to be specifically affected by the proposed activity." EIA Regulations, sec. 9(3)

**Citizen Judicial Review:** Yes

**Citizen Judicial Review Detail:** "A person aggrieved by a decision of the competent authority may appeal to the Appeals Committee within 30 days of receiving the decision of the competent authority." EIA Act, sec. 13(1)

**Project Monitoring:** Yes

**Project Monitoring Detail:** "The relevant technical department, local authority or developer, shall, during and after implementation of an activity, monitor the implementation of the activity to determine compliance with the agreed mitigation measures." EIA Act, sec. 18(1)

**Enforceability of EIA:** Yes

**Enforceability of EIA Detail:** Enforcement might be possible - "If a person alleges that any provision of this Act has been, is being, or is likely to be contravened in relation to him or her, or any other person or group of persons who have a substantial interest, that person may apply to the High Court for redress." EIA Act, sec. 61

**Enforceability of Permit:** Yes

**Enforceability of Permit Detail:** Enforcement might be possible - "If a person alleges that any provision of this Act has been, is being, or is likely to be contravened in relation to him or her, or any other person or group of persons who have a substantial interest, that person may apply to the High Court for redress." EIA Act, sec. 61

Modified: October 25th, 2019

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