Summary

Both male and female same-sex activity are prohibited in Botswana (Botswana Penal Code: Chapter 08.01, 1964).

Termination of contracts of employment on the grounds of sexual orientation or health issues (including HIV/AIDS) is prohibited (Employment Amendment Act, 2010).

Legal Provisions

ANTI-DISCRIMINATION

Botswana Employment Act, 1982: This piece of legislation prohibits termination of employment due to discrimination based on various grounds.

Chapter 47.01
23. Restriction of grounds on which employers may terminate contracts of employment

Notwithstanding anything contained in a contract of employment, an employer shall not terminate the contract of employment on the ground of-

a) the employee's membership of a registered trade union or participation in any activities connected with a registered trade union outside working hours or, with that consent of the employer, within working hours;
b) the employee seeking office as or acting or having acted in the capacity of an employees’ representative;
c) the employee making, in good faith, a complaint or participating in proceedings against the employer involving the alleged violation of any law;

d) the employee's race, tribe, place of origin, national extraction, social origin, marital status, political opinions, sex, colour or creed.


**Botswana Employment Amendment Act: 10 of 2010:** This Act amended the *Employment Act* to add sexual orientation and health status (including HIV/AIDS status) as prohibited grounds of discrimination, and introduced section (e), which provides more general protection against discrimination.

3(a) (d) the employee's race, tribe, place of origin, social origin, marital status, gender, sexual orientation, colour, creed, health status or disability; or

3(b) (e) any other reason which does not affect the employee's ability to perform that employee's duties under the contract of employment.
