

STATUTE LAW (MISCELLANEOUS AMENDMENTS) ACT, 1970

No. 64



of 1970.

ARRANGEMENT OF SECTIONS

Section

1. Short Title
2. Amendment of section 10 of Cap. 57
3. Amendment of section 85 of Proc. 22 of 1961
4. Amendment of First Schedule to Cap. 18

AN ACT TO MAKE VARIOUS MISCELLANEOUS CHANGES IN THE LAWS OF BOTSWANA BY AMENDING THE HABIT-FORMING DRUG PROCLAMATION AND THE FAUNA CONSERVATION PROCLAMATION, 1961 AND MAKING A CONSEQUENTIAL AMENDMENT TO THE CRIMINAL PROCEDURE AND EVIDENCE PROCLAMATION

Date of Assent: 25.11.70.

Date of Commencement: 14.12.1970

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 1970.

Amendment of section 10 of Cap. 57

2. Section 10 of the Habit-Forming Drug Proclamation is amended as follows —

- (i) by the repeal of subsection (2) and the substitution therefor of the following new subsections —

“(2) Where any person has been found guilty under this Proclamation, the Court shall order any habit-forming drug, plant, pipe, receptacle or material in respect of which the offence is committed to be forfeited to the State.

(3) Where any person has been found guilty under this Proclamation, the Court shall order any vehicle, aircraft, boat, animal, receptacle or thing in or upon which such habit-forming drug, plant, pipe, receptacle or material was found to be detained for a period of 28 days and, if within such period no successful application is made under subsection (4), thereafter to be forfeited to the State.

(4) If, on application being made to it within 28 days of the date of the order under subsection (3) by a person claiming ownership, the Court is satisfied —

(a) that such vehicle, aircraft, boat, animal, receptacle or thing is not the property of the person convicted but is that of the person claiming ownership; and

(b) that such owner —

(A) did not know that it was being used for an illegal purpose; or

(B) was unable to prevent its use by the person so convicted, it may, if it considers it equitable and expedient to do so, order the return thereof to the owner.”; and

(ii) by the renumbering of subsections (3), (4) and (5) as (5), (6) and (7) respectively.

Amendment of section 85 of Proc. 22 of 1961

3. Section 85 of the Fauna Conservation Proclamation, 1961 is amended as follows —

(i) by the repeal of subsection (3) and the substitution therefor of the following new subsections —

“(3) Where any person has been found guilty under this Proclamation of hunting game upon land whereof he is not the owner or occupier, without a licence, permit, authority or permission, or is convicted under section 54 (1) or is convicted, of any other offence for which, on a first conviction, a maximum fine of more than R200 is prescribed under this Proclamation, the Court shall order any weapon, animal, vehicle, aircraft or boat used in such hunting or for the purpose of or in connexion with the commission of the offence to be detained for a period of 28 days and, if within such period no successful application is made under subsection (4), thereafter to be forfeited to the State.

(4) If, on application being made to it within 28 days of the date of the order under subsection (3) by a person claiming ownership, the Court is satisfied —

(a) that such animal, weapon, vehicle, aircraft or boat is not the property of the person convicted but is that of the person claiming ownership; and

(b) that such owner —

(A) did not know it was being used for an illegal purpose; or

(B) was unable to prevent its use by the person so convicted, it may, if it considers it equitable and expedient to do so, order the return thereof to the owner.”; and

(ii) by the renumbering of the present subsection (4) as subsection (5).

Amendment of First Schedule to Cap. 18

4. Part I of the First Schedule to the Criminal Procedure and Evidence Proclamation is amended in the first paragraph thereof by the deletion of the words “habit-forming drugs or”.

Passed by the National Assembly this day, 3rd November, 1970.

G.T. MATENGE,
Clerk of the National Assembly