

THE SUBORDINATE COURTS (AMENDMENT) ACT, 1970

No. 16



of 1970

AN ACT TO AMEND THE SUBORDINATE COURTS PROCLAMATION AS TO THE APPOINTMENT OF MESSENGERS: ALLOWING FUTURE EARNINGS OF CIVIL DEBTORS TO BE ATTACHED: AND INCREASING THE POWERS OF PUNISHMENT.

Date of Assent: 3.6.1970

Date of Commencement: 10.6.1970

ENACTED by the Parliament of Botswana:

Short Title

1. This Act may be cited as the Subordinate Courts (Amendment) Act, 1970.

Repeal and replacement of Section 10 of Chapter 5

2. The Subordinate Courts Proclamation (Chapter 5), hereinafter referred to as the principal law, is amended by the deletion of section 10 thereof and by the substitution therefor of a new section as follows --

10. (1) The Minister may appoint such messengers of court as he may deem necessary.

(2) Every messenger shall be appointed to a district and to such court or courts in such districts as the Minister may determine.

(3) Whenever in any matter objection is made to the service or execution of process by a messenger by reason of his interest in such matter or of his relationship to a party to such matter or for any other good cause the officer presiding over the court in which such matter arose shall inquire into the objection and may, if he thinks fit, appoint some other person to act as messenger in such matter and shall, as soon as practicable, report the facts to the Minister.

(4) If at any time a messenger is unable to carry out his duties the officer presiding over the court to which such messenger has been appointed may appoint a person to act as a messenger of that court.

Repeal and replacement of section 47 of Chapter 5

3. The principal law is amended by the repeal of section 47 thereof and by the substitution therefor of a new section as follows —

47. (1) Without prejudice to the provisions of section 18 of the Hire Purchase Proclamation 1961 the court may, if satisfied upon sworn information that sufficient means will, after satisfaction of the order, be left to the judgment debtor to maintain himself and those dependent on him, grant a garnishee order in respect of future or accruing earnings as if they were actually payable.

(2) Such an order may require the garnishee to pay periodically to the messenger definite amounts out of the earnings of the judgment debtor.

(3) The provisions of subsection (3) of the last preceeding section shall apply to any order made under this section if the judgment debtor proves to the satisfaction of the court that his financial position has changed substantially for the worse since the date of the order other than by his own serious and wilful default.

Amendment of section 71 of Chapter 5

4. Section 71 of the principal law is amended as follows —

- (i) in subsection (1) (a) (ii) by the deletion of the figures “400” appearing therein and by the substitution therefor of the figures “800”;
- (ii) in subsection (1) (b) (ii) by the deletion of the figures “100” appearing therein and by the substitution therefor of the figures “400”; and
- (iii) in subsection (1) (c) (ii) by the deletion of the figures “50” appearing therein and by the substitution therefor of the figures “200”.

Amendment of section 71A of Chapter 5

5. Subsection (2) of section 71A of the principal law is amended by the deletion of the words “four years with or without hard labour” appearing therein and by the substitution therefor of the words “six years or to impose a fine exceeding R1600”.

Deletion of expression “with or without hard labour.”

6. The principal law is amended by the deletion of the words “with or without hard labour” wherever they appear therein.

Passed by the National Assembly this day, the 25th April, 1970.

G.T. MATENGE,
Clerk of the National Assembly