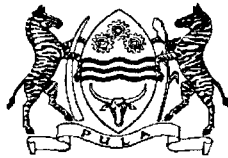


TRADE DISPUTES (AMENDMENT) ACT, 1998

No. 24



of 1998

An Act to amend the Trade Disputes Act

Date of Assent: 21.12.98.

Date of Commencement: 31.12.98.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Trade Disputes (Amendment) Act, 1998, and shall be deemed to have come into operation on 1st April, 1994.

Short title and
commence-
ment

2. The Trade Disputes Act is amended by inserting immediately after section 25 thereof, the following new sections —

Insertion of
sections 25A
and 25B in
Cap. 48:02

“Rescission or
variation of
default
judgment

25A. (1) A judgment or order obtained in default of appearance or of defence or in the absence of one of the parties to the action or proceeding (in this section referred to as a “default judgment”) may be rescinded or varied on the application, in accordance with the provisions of subsection (2), of the party affected by the default judgment.

(2) A party affected by a default judgment may, within one month after he has knowledge of the default judgment, apply to the Court, upon notice to the party in whose favour the default judgment was given, to vary or set aside such default judgment, and the Court may, on good and sufficient cause shown by the party against whom the default judgment was given, vary or set aside the default judgment on such terms as it deems just in the circumstance.

Variation and
rescission of
orders and
judgments

25B. (1) The Court may, *mero motu* or on the application of any party affected, rescind or vary —

- (a) an order or judgment erroneously sought or erroneously granted without notice to any party affected thereby;
- (b) an order or judgment in which there is an ambiguity or a patent error or omission, but only to the extent of such ambiguity, error or omission;
- (c) an order or judgment granted as the result of a mistake common to all parties;

- (d) an order or judgment granted as the result of an issue raised in *limine* if having regard to changed circumstances since such order or judgment was granted it would be unjust or inequitable to allow such order or judgment to stand.
- (2) Any party desiring any relief under this section shall make application therefor upon notice to all parties whose interests may be affected by any variation sought.
- (3) The Court shall not make any order rescinding or varying any order or judgment unless it is satisfied that all parties whose interests may be affected have notice of the order proposed.”.

PASSED by the National Assembly this 16th day of December, 1998.

C.T. MOMPEI,
Clerk of the National Assembly.