

THE MISCELLANEOUS AMENDMENTS ACT, 1972

No. 41



of 1972

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 186, Cap. 18
3. Amendment of section 20 (2), Cap. 82
4. Amendment of section 4 (3), 8 of 1959
5. Amendment of Second Schedule, 36 of 1966
6. Amendment of section 2, 19 of 1968
7. Amendment of section 30, 42 of 1970
8. Amendment of section 4, 44 of 1971
9. Amendment of 20 of 1972

AN ACT TO MAKE SUNDRY MINOR MISCELLANEOUS AMENDMENTS IN THE LAWS OF BOTSWANA.

Date of Assent: 30.12.72.

Date of Commencement: 5.1.73

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Miscellaneous Amendments Act, 1972, and shall come into operation on the date of publication in the Gazette.

Short title
and com-
mencement

2. Section 186 of the Criminal Procedure and Evidence Code is amended by inserting immediately after the word "Chapter" which occurs in line 5 thereof the words "or in Chapter XXXI of the Penal Code".

Amendment
of section 186,
Cap. 18

Amendment
of section 20
(2), Cap. 82

- 3.** Section 20 (2) of the Insolvency Proclamation is amended —
- (a) in paragraph (b) of the proviso thereto by substituting for the word “release” the word “realize”;
 - (b) in paragraph (d) of the proviso thereto by substituting for the word “released” where it occurs in line 2, line 14 and line 21 the word “realized” in each case.

Amendment
of section 4
(3), 8 of 1959

- 4.** Section 4 (3) of the Land Survey Proclamation, 1959 is amended by substituting a colon for the full stop at the end thereof and by the addition of the following proviso —

“Provided that where the applicant is a public officer, and for the period whilst he is a public officer, no registration fee shall be payable.”.

Amendment
of Second
Schedule, 36
of 1966

- 5.** The Second Schedule to the Promissory Oaths Law, 1966 is amended by adding at the end thereof under the appropriate columns 1, 2 and 3, the following entry —

| 1 | 2 | 3 |
|---|---------------|--|
| Any Magistrate or public officer empowered to preside over a subordinate court of any class | Judicial Oath | Chief Justice or Judge of the High Court ” |

Amendment
of section 2,
19 of 1968

- 6.** Section 2 of the Employment of Visitors Act, 1968 is amended in the definition of “visitor”, by inserting in paragraph (c) thereof immediately after the word “immunity” the words “from suit”.

Amendment
of section 30,
42 of 1970

- 7.** Section 30 of the Weights and Measures Act, 1970 is amended by deleting subsections (3), (4), (5) and (6) thereof.

Amendment
of section 4,
44 of 1971

- 8.** Section 4 of the Public Health Act, 1971 is amended by substituting for the words “may health officers” the words “many health officers”.

Amendment
of 20 of 1972

- 9.** The Administration of Estates Act, 1972 is amended —
- (a) in the proviso to section 3 (a) thereof by substituting for the words “valid will” the words “will valid in accordance with the Wills Proclamation (Cap. 87)”;
 - (b) in section 84 thereof, by substituting for the words “District Commissioner” wherever they occur the word “magistrate”;
 - (c) in section 109 thereof by substituting for subsection (1) thereof the following new subsection —

“(1) If any executor, administrator, tutor or curator fails to lodge any account with the Master as and when required by this Act, or to lodge any vouchers in support of such account or to perform any other duty imposed upon him by this Act, or to comply with any reasonable demand of the Master for information or proof required by him in connection with the administration of the executor, administrator, tutor or curator, the Master or any person having an interest in the matter may, after giving the executor, administrator, tutor or curator not less than one month’s notice, apply to the Court for an order directing the executor, administrator, tutor or curator to lodge such account or vouchers in support thereof or to perform such duty or to comply with such demand. The costs adjudged to the Master or to such other person shall, unless otherwise ordered by the Court, be payable by the executor, administrator, tutor or curator *de bonis propriis*.”;

- (d) in section 109 (2) thereof by substituting for the words “his account” the words “such account or vouchers in support thereof, or to perform such duty, or to comply with such demand”;
- (e) in section 109 (3) thereof by adding at the end thereof the following —

“The costs adjudged to the Master or such other person shall, unless otherwise ordered by the Court, be payable by the executor, administrator, tutor or curator *de bonis propriis*.”;
- (f) in section 109 thereof by deleting subsection (4);
- (g) by substituting for the Second Schedule thereto the following new Schedule —

“SECOND SCHEDULE

FEES

1. On all estates of deceased persons or estates under tutorship or administration (except estates under the charge of a curator *bonis* pending the appointment of an executor) the gross value of which —
 - (a) exceeds R500 but does not exceed R1,000 2 00
 - (b) exceeds R1,000 for every R200 or part thereof 1 00
 - subject to a maximum fee of 200 00

Where the deceased is one of two spouses married in community of property, the above fees shall be assessed upon one half of the gross assets of such community.

2. For extracts or copies of documents made or certified in the office of the Master, for each 100 words or part thereof 20
3. For custody of any Will during the testator's lifetime, per annum 2 00
4. Upon all unclaimed moneys paid into the hands of the Master pursuant to section 102 of this Act, or for account of absent or unknown creditors or contributors of any company, a commission upon the amount paid in of 5 per cent payable in cash, which shall be deducted from the unclaimed moneys so paid into the hands of the Master."

Passed by the National Assembly this 20th day of December, 1972.

I.P. GONTSE,
Clerk of the National Assembly.