

## COMPANIES (AMENDMENT) (NO. 2) ACT, 1974

No. 18



of 1974

### An Act to amend the Companies Proclamation, 1959

*Date of Assent:* 12. 8.74

*Date of Commencement:* 30. 8.74

ENACTED by the Parliament of Botswana.

**1.** (1) This Act may be cited as the Companies (Amendment) (No. 2) Act, 1974.

Short title  
and appli-  
cation

(2) The amendment to the Companies Proclamation, 1959 introduced by section 2 shall apply in respect of any such default or breach as is therein referred to whether or not such default or breach occurred or originated before or after the commencement of this Act.

70 of 1959

**2.** The Companies Proclamation, 1959 is amended by inserting immediately after section 302 thereof the following section ---

Addition of  
new section  
302A

Additional  
powers of  
enforcement

302A. (1) Where any company is in default in filing, delivering or sending any return, account or other document required to be filed, delivered or sent to the Registrar under this Proclamation, or is in any other respect in breach of any of the provisions of this Proclamation, and where the Minister can satisfy the High Court that the provisions for enforcement contained in this Proclamation (otherwise than as provided in this section) are impracticable of enforcement by reason of the fact that no officer of the company is resident in Botswana or for any other sufficient reason, the Court may, on the application of the Minister, appoint a receiver to assume control of the company's assets located or situated in Botswana with full power to conduct the affairs of the said company in Botswana

as if he were a judicial manager of a company under judicial management.

(2) The said receivership may be discharged by the Court, on application made by —

(a) the receiver; or

(b) the company, when the Court is satisfied that all of the following conditions are met, namely —

- (i) there has been full compliance with all the provisions of this Proclamation, including the filing, delivery or sending of all returns, accounts and documents required to be so filed, delivered or sent;
- (ii) the payment by the company of all expenses and costs of the said receivership, including any remuneration due to or paid to the receiver and including any costs incurred by the Minister in obtaining the appointment of the receiver or in the discharge of the receivership; and
- (iii) the payment by the company of such sum by way of penalty as the Court may deem appropriate in the circumstances:

Provided that no such penalty shall be in excess of the fine or fines which might be imposed by the Court on conviction of the company, or any of its directors or officers individually, in accordance with the provisions of this Proclamation, in respect of the default or defaults in question.”.

Passed by the National Assembly this 27th day of June, 1974.

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