

CRIMINAL PROCEDURE AND EVIDENCE (AMENDMENT) ACT, 1981

No. 8



of 1981

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Insertion of new section 229A in Cap. 08:02

An Act to amend the Criminal Procedure and Evidence Act

Date of Assent: 14.4.81.

Date of Commencement: 24.4.81.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Criminal Procedure and Evidence (Amendment) Act, 1981. Short title

2. The Criminal Procedure and Evidence Act is amended by inserting therein, immediately after section 229 thereof, the following new section — Insertion of new section 229A in Cap. 08:02

“Admissibility of confessions and other statements made before magistrate or justice”
229A. (1) A policeman may take or cause to be taken any person lawfully detained in his custody before a magistrate or any justice who is not a member of the police force and the magistrate or justice shall give that person the opportunity to make a statement to him in respect of any offence that person is alleged to have committed and, if that person elects to make a statement, the magistrate or justice shall record the same in writing in the language in which it is made or in some other language into which it is duly translated while being made.

(2) Before any person makes a statement in terms of this section, the magistrate or justice shall caution him to the effect that he is not obliged to say anything unless

he wishes to do so but that should he elect to say anything it will be recorded in writing and may be used in evidence either for or against him.

(3) Every statement recorded in accordance with this section shall, whether it amounts or does not amount to a confession of the commission of any offence, be admissible in evidence either for or against the maker thereof at any subsequent trial or preparatory examination in respect of any offence, to the extent that the contents thereof are sufficiently relevant for the purpose of the trial or preparatory examination.

(4) Notwithstanding subsection (3), a statement recorded in accordance with this section shall not be admissible in evidence against the maker thereof unless it is proved to have been freely and voluntarily made by him in his sound and sober senses and without having been unduly influenced thereto."

PASSED by the National Assembly this 31st day of March, 1981.

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