

PENAL CODE (AMENDMENT) ACT, 2004

No. 39



of 2004

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 27 of Cap. 08:01
3. Amendment of section 28 of the Act
4. Amendment of section 29 of the Act

An Act to amend the Penal Code

Date of Assent: 20th December, 2004.

Date of Commencement: On Publication.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Penal Code (Amendment) Act, 2004. Short title
2. Section 27 of the Penal Code (hereinafter referred to as “the Act”) is amended by inserting, immediately after subsection (3) thereof, the following new subsection — Amendment of section 27 of Cap. 08:01

“(4) Notwithstanding any provision in any enactment which provides for the imposition of a statutory minimum period of imprisonment upon a person convicted of an offence, a court may, where there are exceptional extenuating circumstances which would render the imposition of the statutory minimum period of imprisonment totally inappropriate, impose a lesser and appropriate penalty.”
3. Section 28 of the Act is amended by substituting, for subsection (4) thereof, the following new subsection — Amendment of section 28 of the Act

“Where any male person under the age of 40 is convicted of any offence punishable with imprisonment, other than an offence listed in the Second Schedule to the Criminal Procedure and Evidence Act, a court may, in its discretion but subject to the provisions of section 27(1), order him to undergo corporal punishment in addition to or in substitution for such imprisonment.” Cap. 08:02
4. Section 29 of the Act is amended in subsection (2) thereof by — Amendment of section 29 of the Act
 - (a) inserting, immediately after the word “imprisonment” which appears in the first paragraph thereof, the words “or corporal punishment”;

- (b) deleting the word “term” which appears in the first line of the paragraph immediately preceding the table; and
- (c) substituting, for the table which appears therein, the following new table —

<i>“Amount of fine</i>	<i>Maximum</i>
Not exceeding P200	14 days or 6 strokes
P200-P1000	One month or 9 strokes
P1001-P10,000	Six months or 12 strokes
Exceeding P10,000	Two years imprisonment.”.

PASSED by the National Assembly this 8th day of December, 2004.

A. MATLHAKU,
Clerk of the National Assembly.