

CRIMINAL PROCEDURE AND EVIDENCE (AMENDMENT) ACT, 2014

No. 2



of 2014

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 96 of Cap. 08:02
3. Amendment of section 97 of the Act
4. Amendment of section 123 of the Act
5. Amendment of section 133 of the Act
6. Amendment of section 138 of the Act

An Act to amend the Criminal Procedure and Evidence Act.

Date of Assent: 23.01.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Criminal Procedure and Evidence (Amendment) Act, 2014, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Criminal Procedure and Evidence Act (hereinafter referred to as "the Act") is amended by substituting for section 96, the following new section —

Amendment of section 96 of Cap. 08:02

"Indictment by the Director of Public Prosecutions in certain cases

96. (1) Notwithstanding anything contained in this Act, the Director of Public Prosecutions may, at any time, serve upon an accused person and a court, notice of his intention to indict him for trial before the High Court on a charge of any offence specified in the notice.

(2) Upon receipt of the notice referred to in subsection (1), a list of witnesses the Director of Public Prosecutions intends to call, copies of statements of such witnesses, and a charge sheet, a magistrate shall, notwithstanding anything contained in this Act —

- (a) cause the accused person to be brought before him;
- (b) immediately commit the accused person for trial before the High Court in respect of the offence specified in such notice; and
- (c) commit the accused person to be detained until brought to trial before the High Court for the offence specified in the warrant or until admitted to bail.

(3) Where an accused person has been committed for trial under subsection (2), the Director of Public Prosecutions shall serve the accused person, at the same time as the indictment and notice of trial are served upon him under section 123 with —

(a) a list of witnesses the Director of Public Prosecutions intends to call; and

(b) copies of statements of witnesses under paragraph (a), and the copies of statements of witnesses referred to under paragraph (b) shall be deemed to be copies of depositions for the purposes of section 98.

3. The Act is amended by deleting section 97.

Amendment
of section 97
of the Act

4. Section 123 of the Act is amended by —

(a) substituting for subsection (1), the following new subsection —

“(1) Where —

(a) a person charged with an offence has been committed for trial or sentence before the High Court; or

(b) the Director of Public Prosecutions has served the High Court with a notice of intention to indict an accused person for trial before the High Court, the charge shall be in writing in a document called an indictment.”; and

(b) substituting for subsection (4), the following new subsection —

“(4) The service upon an accused person of any indictment, together with any notice of trial thereof, shall be made by the —

(a) Director of Public Prosecutions, when the prosecution is at the public instance; or

(b) private party or his counsel, when the prosecution is a private one,

and in the manner provided by rules of court.”

5. The Act is amended by substituting for section 133, the following new section —

“Persons
committed to
be brought to
trial within
reasonable
time

133. Every person committed for trial or sentence before the High Court shall be brought before the High Court for trial or sentencing within a reasonable time.”

Amendment
of section 133
of the Act

6. The Act is amended by substituting for section 138, the following new section —

“Trial of pending case may be postponed

138. Where a case is to be tried by the High Court, any court before which a criminal trial is pending may, if it is necessary or expedient, postpone the trial until such time, and to such place, and upon such terms, as such court may seem proper, and further postponements may, if necessary and expedient, be made from time to time:

Provided that in the case of a magistrate’s court, such postponement shall not exceed 14 days if the accused is remanded in custody, or three months if the accused is not remanded in custody.”

Amendment of section 138 of the Act

PASSED by the National Assembly this 12th day of December, 2013.

BARBARA N. DITHAPO,
Clerk of the National Assembly.