

THE COURT OF APPEAL (AMENDMENT) ACT,

No. 15



of 1969.

AN ACT TO AMEND THE COURT OF APPEAL PROCLAMATION (CHAPTER 3) TO MAKE PROVISION FOR THE SEAL OF THE COURT, APPOINTMENT OF ASSESSORS, POWER TO MAKE RULES, MAJORITY DECISIONS, CONTEMPT OF COURT, ENFORCEMENT OF THE COURT'S ORDERS, AND THE LAW TO BE APPLIED BY IT, AND TO PRECLUDE JUDGES FROM SITTING ON APPEALS FROM THEIR OWN DECISIONS.

Date of Assent: 8.7.69.

Date of Commencement: 25.7.69

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Court of Appeal (Amendment) Act, 1969.

Amendment of Court of Appeal Proclamation (Chapter 3)

2. The Court of Appeal Proclamation (Chapter 3) is amended by the addition of the following sections after section 17 —

“Seal

18. The Court of Appeal shall have and use, as occasion may require, a seal bearing a device or impression of the arms of Botswana with the inscription “The Court of Appeal for Botswana”.

Appointment of Assessors

19. The Court may, in any case in which it appears to the Court to be expedient, call in the aid of one or more assessors with such special qualifications as the Court may think fit, and hear such case wholly or in part with the assistance of such assessors.

Judge not to Sit on Appeal from his own Decision

20. A judge of the Court of Appeal shall not sit as a judge on the hearing of an appeal from any judgment or decision given or made by himself or by any Court of which he was sitting as a member when the judgment or decision appealed against was given or made or when the argument on the case was heard.

Rules of Court

21. Subject to the provisions of this Proclamation and of any other law, the President of the Court of Appeal may, with the approval of the President, make rules of Court for regulating generally the practice and procedure of the Court, which may include rules for the following purposes —

- (a) for regulating the times and places of the sittings of the Court and the selection of judges for any purpose ;
- (b) for fixing the minimum number of judges who are to sit for any purpose, so, however, that no matter shall be finally determined by fewer than three judges ;
- (c) for regulating the right of audience and the representation of persons in proceedings in the Court ;
- (d) for prescribing cases in which, and conditions on which, an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal ;
- (e) for providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purpose of delay ;
- (f) for prescribing the time within which any requirement of the rules is to be complied with ;
- (g) for prescribing forms and fees (including fees of assessors) in respect of proceedings in the Court and for regulating the costs of and incidental to any such proceedings ;
- (h) for prescribing and regulating the powers and duties of officers of the Court.

Majority Decision Required

22. Any determination by the Court of Appeal shall require the concurrence of a majority of the judges present at the hearing of the matter and shall be delivered in open court :

Provided that nothing in this section shall be deemed to prevent any judge from delivering a dissenting or concurring opinion.

Contempt of Court

23. The Court of Appeal shall have power to make any order for the purpose of the investigation or punishment of any contempt of court which the High Court has power to make.

Enforcement of Orders

24. Any judgment or order of the Court of Appeal shall be enforceable by all courts and authorities in Botswana in like manner as if it were a judgment or order of the High Court.

Law Applicable

25. In the hearing and determination of any appeal or question of law reserved the law to be applied shall be the law properly applicable to the case in the Court from which the appeal is brought or by which the question of law was reserved."

Passed by the National Assembly this day, the 25th March, 1969.

G.T. MATENGE,
Clerk of the National Assembly.