

ACT NO. 10 OF 1998

CRIMINAL PROCEDURE AND EVIDENCE (AMENDMENT) ACT 1998

An Act to amend the Criminal Procedure and Evidence Act 19811 so as to vest in the Courts jurisdiction to impose community service sentences as an option to custodial sentences and for related matters.

Enacted by the Parliament of Lesotho

Short title

1. This Act may be cited as the Criminal Procedure and Evidence (Amendment) Act 1998.

Interpretation

2. The principal law is amended in section 3 by inserting the following definition in its proper alphabetical order-

“minor offence” means an offence for which the court may pass a sentence not exceeding 18 months with or without an option of a fine and which in the opinion of the presiding officer was committed under circumstances which mitigate the offence;’.

Nature of punishment

3. The principal law is amended in section 297(4)-
 - (a) by deleting the full stop at the end of paragraph (f) and substituting a semi-colon;
 - (b) by inserting the following paragraph after paragraph (f)“(g) community service as an option to a custodial sentence.”
4. The principal law is amended by inserting the following section after section 314-

“Community Service

- 314 A.(1) Where a person is convicted of a minor offence or any other offence other than any of the offences specified in Schedule IV, the court may, instead of sentencing that person to imprisonment or detention, suspend the sentence and order that person to perform community

service.

(2) Where the court wishes to impose the punishment of community service, it shall proceed in accordance with the Rules made by the Chief Justice under section 320A.”.

5. The principal law is amended by inserting the following section after section 320-

“Rules

320A. The Chief Justice may make Rules providing for-

- (a) the procedure to be followed in cases where the punishment of community service is to be imposed;
- (b) the administration and structural organisation for community service dispensation;
- (c) the organisational structures for community service sentence;
- (d) the magisterial areas in which community service sentencing shall be applicable;
- (e) the appointment, qualifications and functions of a resource person in relation to community service;
- (f) the formulation of community service matrix;
- (g) the prescription of forms as may be required;
- (h) the amendment of the Schedules; and
- (i) matters generally related or connected with community service.

Transitional

320B. (1) Subject to section 3 14A, an offender serving the punishment of imprisonment in the last 6 months before the commencement of this Act may, through the Director of Prisons, apply for community service.

(2) The Director of Prisons shall forward the application, with or without any recommendations, to the Minister who may approve or disapprove the application.

(3) The application referred to in subsection (1) shall be made in the

form to be prescribed in the Rules to be made by the Chief Justice under section 320A.”.

Repeal

6. The Prisons (Amendment) (No.2) Order 1971² is repealed.

Schedule

7. The principal law is amended by inserting the following after Schedule III-

“Schedule IV

Offences on conviction whereof the offender cannot be sentenced to community service:

High Treason

Sedition

Murder

Attempted Murder

Rape

Robbery in which a firearm or an instrument which in the opinion of the court is a life threatening one was used in the commission of an offence

Theft of stock involving more than one large livestock animal or more than three small livestock animals

Theft of a motor vehicle committed by either an adult offender or a child within the meaning of the Children Protection Act 1980³

Arson

Fraud involving moneys above M20,000.”.

NOTE

1. ActNo.9of 1981
2. Order No.4 of 1971
3. ActNo.6of 1980