



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XXXVII]

MBABANE, Friday, March 26th., 1999

[No. 460

CONTENTS

No.

Page

PART A - BILLS

- | | | |
|----|--|----|
| 2. | The Criminal Procedure and Evidence (Amendment) Bill, 1999 | S1 |
|----|--|----|

PUBLISHED BY AUTHORITY

THE CRIMINAL PROCEDURE AND EVIDENCE
(AMENDMENT) BILL, 1999

(Bill No. 2 of 1999)

(To be presented by the Hon. Minister for Justice and Constitutional Development)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Criminal Procedure and Evidence Act, 1938 so as to provide for the continuation of criminal proceedings by another judicial officer in the event the judicial officer who presided over the proceedings is unable to do so and to provide for incidental matters to this Bill.

MARTIN DWAMENA
Attorney-General

A BILL
entitled

An Act to amend the Criminal Procedure and Evidence Act, 1938.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement.

1. This Act may be cited as the Criminal Procedure and Evidence (Amendment) Act, 1999 and shall be read as one with the Criminal Procedure and Evidence Act, 1938 (hereinafter in this Act called the "Principal Act"), and shall come into force on the date of publication in the Government Gazette.

Application.

2. This Act shall apply to all criminal proceedings before any court irrespective of whether or not such criminal proceedings commenced before or after the date of publication referred to in section 1.

Amendment of section 291.

3. Section 291 of the principal Act is amended by the addition of a new section 291 *bis*, as follows -

"Sentence, in all courts, where the presiding officer is unable to pass sentence.

291 *bis*. Notwithstanding any law to the contrary -

- (a) if sentence is not passed upon an accused forthwith upon conviction in any court; or
- (b) if, by reason of any decision or order of a superior court on appeal, review or otherwise, it is necessary to add to or vary any sentence passed in a lower court or to pass sentence afresh in such court,

any judicial officer of that court may, in the absence of the judicial officer who convicted the accused or passed the sentence, as the case may be, and after consideration of the evidence recorded and in the presence of the accused -

- (i) pass sentence on the accused; or
- (ii) take such other steps as the judicial officer who convicted or passed sentence, that is to say the absent judicial officer, could lawfully have taken in the proceedings in question if he had not been absent.”