

CHAPTER 90

THE MINIMUM SENTENCES ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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SCHEDULES

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CHAPTER 90

THE MINIMUM SENTENCES ACT

An Act to provide for the imposition of minimum sentences in respect of specified offences and for related matters.

[1st March, 1972]

[s. 1]

Acts Nos.
1 of 1972
23 of 1973
10 of 1989
6 of 1994
9 of 1996
4 of 1998
12 of 1998
9 of 2002

- Short title **1.** This Act may be cited as the Minimum Sentences Act.
- Application **2.** The provisions of this Act shall not apply to a juvenile.
- Interpretation **3.** In this Act, unless the context requires otherwise-
- Cap. 16 “cattle” means any of the animals specified in section 268 of the Penal Code;
“juvenile” means any person under the apparent age of eighteen years;
“scheduled offence” means an offence specified in any of the Schedules to this Act;
“specified authority” means-
- Cap. 366 (a) the Government;
(b) a local government authority;
(c) a trade union registered under Employment and Labour Relations Act;
- Cap. 212 (d) any body corporate established by or under any written law other than the Companies Act;
(e) any subsidiary company;
“subsidiary company” means a company registered under the Companies Act not less than fifty *per centum* of the issued

share capital of which is owned by a specified authority or two or more specified authorities and includes a company limited by guarantee where the amount which the specified authority is a member will become liable to contribute in the event of the company being wound-up is not less than fifty *per centum* of the aggregate amount which all the members have undertaken to contribute; and references in this definition to a specified authority include references to any subsidiary company.

Minimum sentences where persons convicted of scheduled offence
Acts Nos.
12 of 1998 Sch.
9 of 2002 Sch.

4. Where any person is, after the date on which this Act comes into operation, convicted by a court of a scheduled offence, whether such offence was committed before or after such date, the court shall sentence such person to a term of imprisonment which shall not be less than-

- (a) where the offence is an offence specified in the First Schedule to this Act, one year;
- (b) where the offence is an offence specified in the Second Schedule to this Act, six months; and
- (c) where the offence is an offence specified in the Third Schedule to this Act, thirty years.

Circumstances in which court shall award longer terms of imprisonment
Acts Nos.
10 of 1989 Sch.
6 of 1994 Sch.
4 of 1998 s. 29
9 of 2002 Sch.

5. Notwithstanding the provisions of section 4-

- (a) any person who is convicted of robbery shall be sentenced to imprisonment for a term of not less than fifteen years;
- (b) where the offender is armed with any dangerous or offensive weapon or instrument or is in company with one or more persons, or if at or immediately before or immediately after the time of robbery, he wounds, beats, strikes or uses any other personal violence to any person, he shall be sentenced to imprisonment to a term of not less than thirty years;
- (c) where any person is convicted of stealing cattle, the court shall sentence him to imprisonment for a term of not less than five years;

Cap. 16

Act No.
4 of 1998Circumstances in
which court may
not apply this Act
Act No.
23 of 1973 Sch.

- (d) where any person is convicted of an offence specified in the Second or Third Schedule to this Act and the court is satisfied that such person was, at any time within seven years immediately preceding the date when he committed such offence, convicted of a like offence or of any scheduled offence or of any offence provided for in Chapter XXVII to Chapter XXXIII, inclusive, of the Penal Code, the court shall sentence such person to imprisonment for a term of not less than-
- (i) in the case where the person is convicted of an offence specified in the Second Schedule to this Act, two years; and
 - (ii) in the case where such person is convicted of an offence specified in the Third Schedule to this Act, one year; and
- (e) where any person is convicted of any sexual offence specified under Chapter XV of the Penal Code, as amended by the Sexual Offences Special Provisions Act, the court shall sentence such person to imprisonment for a term prescribed under that Chapter.

6.-(1) Notwithstanding the provisions of section 4 or section 5, where a person is convicted of a scheduled offence and the court is satisfied that-

- (a) the person so convicted is a first offender;
- (b) the value of the property obtained by such person in the course of the commission of such offence or which he attempted to so obtain does not exceed or, in the case of an attempt, would not have exceeded, one hundred shillings; and
- (c) having regard to all the circumstances of the case, it is just and equitable so to do,

the court may, in lieu of sentencing such person to the minimum sentence of imprisonment provided for in section 4, proceed to deal with such person as if this Act had not been enacted.

Cap. 16 (2) For purposes of this section “first offender” means a person who has not, at any time within seven years immediately preceding his conviction, been convicted of a scheduled offence or any offence provided for in Chapter XXVII to Chapter XXXIII, inclusive, of the Penal Code.

Cap. 329 (3) This section shall not apply where a person is convicted of an offence under section 15 or section 23 of the Prevention and Combating of Corruption Act, or of stealing cattle or of robbery.

Compensation
Cap. 20 7.-(1) Notwithstanding the provisions of section 368 of the Criminal Procedure Act, where a court convicts any person of a scheduled offence other than an offence under the Prevention and Combating of Corruption Act, the court shall, if it is of the opinion that such person has obtained any property as a result of the commission of the offence and that the owner of the property can be identified, make an order that the person convicted shall pay to the owner of the property compensation equal to the value of the property as assessed by the court.

Cap. 329 (2) An order under this section may be made at any time after the sentence has been passed, and where it has not been made immediately after the sentence has been passed, the court which passed the sentence or any court having revisional jurisdiction over it, may make such order at any subsequent time on the application of the owner of the property or on its own motion:

Provided that, such order shall not be made save in the presence of the person against whom it is made.

(3) Where an order is made under this section, the person in whose favour such order is made may file an authenticated copy thereof in the district court having jurisdiction over the area over which the court which made the order has jurisdiction, and upon being so filed the order shall be deemed to be a decree passed by such district court and may be executed in the same manner as if it were a decree passed by such court under the provisions of the Civil Procedure Code, and the

Cap. 33

district court or any other district court to which the decree may be transferred for execution, shall have jurisdiction to execute such decree notwithstanding that the amount of the compensation awarded exceeds the pecuniary jurisdiction of the district court.

Remand pending
conviction
Cap. 20

8. Notwithstanding the provisions of section 178 of the Criminal Procedure Act, where any person is convicted of a scheduled offence and any part of the sentence imposed requires to be confirmed by the High Court, such person shall have no right to elect to remain on remand pending such confirmation.

Provisions
relating to
evidence
Act No.
9 of 1996 Sch.

9. In any proceedings in which a person is charged with a scheduled offence, any document purporting to be a certificate under the hand of the Registrar of Companies or an Assistant Registrar of Companies to the effect that the company specified in such certificate is a subsidiary company within the meaning assigned to the expression by section 3, shall be admissible in evidence and shall be *prima facie* evidence that such company is a subsidiary company and that the signature to such certificate is genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

Court may
impose
imprisonment for
longer term

10.—(1) Nothing in this Act shall be construed as precluding a court from imposing, in relation to a scheduled offence, a sentence of imprisonment for a term longer than the minimum term of imprisonment, prescribed for such offence by this Act:

Provided that, the court's power to impose such longer term of imprisonment shall be subject to-

- (a) the maximum term of imprisonment prescribed for the offence by the written law providing for the offence; and
- (b) the limitation, if any, upon the court's powers to award punishments imposed by the Criminal Procedure Act or any other written law.

Cap. 20

(2) Where the provision of the written law which provides for any of the offences specified in any of the Schedules to this Act is amended or repealed and re-enacted, whether

with or without modification or whether by the re-enactment of the written law in which such provision occurs or by incorporation of the re-enacted provision in any other written law, the provisions of this Act shall, unless the amending or the repealing and re-enacting legislation, as the case may be, expressly provides to the contrary, apply to the corresponding offence or offences created by such amending or repealing and re-enacting legislation, and the provisions of the Schedules to this Act shall be construed as if references therein to the offence provided for by the written law so amended or repealed and re-enacted, were references to such corresponding offence or offences so created.

(3) The provisions of subsection (2) shall be construed as being in addition to and not in derogation of the provisions of section 31 of the Interpretation of Laws Act.

Cap. 1

Repeal
Act No.
29 of 1963

11. [Repeals the Minimum Sentences Act].

Omitted

12. [Omitted].

FIRST SCHEDULE¹

(Made under section 4)

Cap. 265

1. Trespassing with intent to steal contrary to section 4 of the Stock Theft (Prevention) Act.

Cap. 265

2. Any offence relating to brands contrary to section 7 of the Stock Theft (Prevention) Act.

SECOND SCHEDULE

(Made under section 4)

1. Being found near stock in suspicious circumstances contrary to section 5 of the Stock Theft (Prevention) Act.

¹ First Schedule was deleted, and Second to Fourth Schedules were renumbered as First, Second and Third Schedules by Act No. 9 of 2002 Sch.

Cap. 265 2. Passing through, over or under, tampering with, fences around a stock enclosure or cattle *boma* contrary to section 6 of the Stock Theft (Prevention) Act.

THIRD SCHEDULE

(Made under section 4)

Cap. 265 Being in possession of stock suspected of having been stolen contrary to section 3 of the Stock Theft (Prevention) Act.
