

GOVERNMENT OF ZAMBIA

ACT

No. 20 of 2000

Date of Assent: 23rd December, 2000

An Act to amend the Penal Code

[29th December, 2000

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Penal Code Act, (Amendment) (No. 2) Act, 2000, and shall be read as one with the Penal Code, in this Act referred to as the principal Act.

Short title

Cap. 87

2. Section *thirty* of the principal Act is amended—
- (a) by the deletion of the full-stop at the end of the section and the substitution therefor of a colon; and
- (b) by the insertion after the colon of the following proviso:

Amendment
of section 30

Provided that where a person is convicted of an offence under section *two hundred and eighty-one A* the court which convicts the person may, in addition to any other penalty imposed under that section, order the person convicted to make compensation to any person who has suffered loss or damage from the convicted person's offence and the order of compensation may include the actual loss suffered and any loss arising from the commission of the offence.

3. Section *two hundred and eighty-one A* of the principal Act is amended by the insertion immediately after subsection (2) of the following new subsections:

Amendment
of section
281A

*Single copies of this Act can be obtained from the Government Printer,
P. O. Box 30136, 10101, Lusaka. Price K2,000.00 each.*

(3) Where a person is convicted of an offence under subsection (1) the court which convicts the person shall, in addition to any other penalty imposed under that subsection, order the forfeiture of all the property which has been used for or derived from the commission of that offence:

Provided that no property which has been used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the property and it is proved to the court that the use of the property for the commission of the offence was without the consent and knowledge of the owner or person in charge of the property.

(4) Where a person is charged with an offence under subsection (1) the trial court may, notwithstanding that the person was not originally charged with that offence, convict the person of a lesser offence and the person shall, upon such conviction, be liable to a fine of not less than fifty-eight thousand penalty units or to imprisonment for a term of not less than five years, or to both.

Insertion of
new section
281B

4. The principal Act is amended by the insertion immediately after section *two hundred and eighty-one A* of the following new section:

Search,
seizure and
arrest of
person in
relation to
theft of
motor
vehicle

281 B (1) A police officer may, without a warrant, stop, search and arrest any person found driving, or in possession, charge or control of a motor vehicle, where the officer believes, on reasonable grounds, that the vehicle is stolen.

(2) Where an arrest is made under subsection (1) the police officer may seize the vehicle and any documents relating to the vehicle.

(3) A police officer who arrests any person or seizes a motor vehicle under this section shall as soon as practicable take the person, the vehicle and any documents relating to the vehicle to the nearest police station.

(4) A person arrested and any motor vehicle seized under this section shall, within forty-eight hours of arrest and seizure, be brought before a court.

(5) Any motor vehicle—

(a) returned, by the court, to the police at the conclusion of the case; or

(b) found abandoned on any road or in any public place or premises;

and of which the owner is not known or cannot be found, may be removed to a police station, and if not previously claimed by its owner, shall be dealt with in accordance with the provisions of subsection (6).

(6) The Officer-In-Charge of the police station to which a motor vehicle is removed in terms of subsection (5) shall cause to be published, once in the *Gazette*, and once in a newspaper of general circulation in Zambia, a notice containing—

- (a) particulars of the vehicle concerned; or
- (b) where no particulars are available, a fair description of the vehicle; and
- (c) a warning that if the vehicle remains unclaimed within six months from the date of publication of the notice, it shall be forfeited to the State and dealt with as the Minister may, by notice in the *Gazette*, direct, which may include sale by public auction.

5. The principal Act is amended by the insertion immediately after section *two hundred and eighty-nine* of the following new section:

Insertion of
new section
289A

289A. (1) Any person who—

(a) takes, conceals, sells, or otherwise disposes of a motor vehicle or any part of it with intent to defraud any person; or

Fraudulently
dealing with
motor
vehicles

(b) knowing or believing that a motor vehicle is stolen, dishonestly receives such motor vehicle or undertakes or assists in its retention, removal, disposal or realisation by or for the benefit of another person or arranges to do so;

commits an offence and is liable, upon conviction, to a fine of not less than twenty-eight thousand penalty units but not exceeding fifty-six thousand penalty units or to imprisonment for a term of five years or to both.

(2) Where a person is convicted of an offence under this section the court which convicts the person shall, in addition to any penalty imposed under subsection (1), order the forfeiture of all property which is used for or derived from the commission of the offence.

(3) Any sentence imposed under subsection (1) shall be consecutive to, and not concurrent with, any sentence imposed on the convicted person and no part of such sentence shall be suspended.