

eSwatini

## Criminal Liability of Intoxicated Persons Act, 1938

Act 68 of 1938

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1938/68/eng@1998-12-01

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PDF created on 7 November 2023 at 22:55.

*Collection last checked for updates: 1 December 1998.*

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Criminal Liability of Intoxicated Persons Act, 1938

Contents

1. Short title ..... 1

2. Intoxication as a defence to a criminal charge ..... 1

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# Criminal Liability of Intoxicated Persons Act, 1938

## Act 68 of 1938

Commenced on 1 January 1939

*[This is the version of this document at 1 December 1998.]*

**An Act to make statutory provision regarding the criminal liability of intoxicated persons.**

### 1. Short title

This Act may be cited as the Criminal Liability of Intoxicated Persons Act, 1938.

### 2. Intoxication as a defence to a criminal charge

- (1) Subject to this section, intoxication shall not constitute a defence to any criminal charge.
- (2) Notwithstanding subsection (1) intoxication shall be a defence to a criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and—
  - (a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or,
  - (b) he was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.
- (3) If a defence under subsection (2) is established, the accused shall be discharged if the case falls under subsection (2)(a) and if the case falls under subsection (2)(b) section 165 of the Criminal Procedure and Evidence Act, [No. 67 of 1938](#), shall apply.
- (4) Intoxication shall however be taken into account for the purpose of determining whether an accused person had formerly any intention, specific or otherwise, in the absence of which he would not be guilty of the offence charged.
- (5) For the purpose of this section “intoxication” includes a state produced by narcotics or drugs.