STATUTORY INSTRUMENTS

# 1964 No. 1187

## AFRICA

# The Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal (Amendment) Order 1964

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| *Made* - - - - | *27th July* 1964 |
| *Laid before Parliament* | *31st July* 1964 |
| *Coming into Operation* | *1st August* 1964 |

At the Court at Buckingham Palace, the 27th day of July 1964

**Present,**

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, construction and commencement.

**1.**—(1) This Order may be cited as the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal (Amendment) Order 1964 and shall be construed as one with the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal Order in Council 1954(b) (hereinafter called " the principal Order ").

(2) This Order and the principal Order may be cited together as the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal Orders 1954 and 1964.

(3) This Order shall come into operation on 1st August 1964.

Amendment of section 6 of principal Order.

**2.** Section 6 of the principal Order is amended as follows:—

(*a*) in subsection (1)(*c*) the words " the Secretary of State may " are substituted for the words " the High Commissioner may by instrument under his hand " ;

(*b*) in subsection (2) the words " the Secretary of State shall " are substituted for the words " the High Commissioner shall, by instrument under his hand " ;

(*c*) for the proviso to subsection (3) there is substituted the following proviso:—

" Provided that such a person—

(*a*) may at any time by notice in writing addressed to the Secretary of State resign his office ; and

(*b*) shall vacate his office at the termination of such period, if any, for which he was appointed.".

(a) 53 & 54 Vict. c. 37. (b) S.I. 1954/1369 (1954 I, p. 167).

Amendment of section 7 of principal Order.

**3.** Section 7 of the principal Order is amended as follows:—

(*a*) in subsection (1) the references to the High Commissioner shall be construed as references to the Secretary of State, and the words " by instrument under his hand " are omitted;

(*b*) for subsection (2) there is substituted the following subsection:—

" (2) Any person appointed to act as President of the Court shall continue so to act until his appointment is revoked by the Secretary of State:

Provided that such a person may at any time, by notice in writing addressed to the Secretary of State, resign his acting office.".

Amendment of section 8 of principal Order.

**4.** Section 8 of the principal Order is amended by the substitution of the words " the Secretary of State " for the words " the High Commissioner ".

Replacement of section 9 of principal Order.

**5.** For section 9 of the principal Order there is substituted the following section:—

" Officers of the Court.

9.—(1) There shall be in each of the Territories a Registrar and such other Officers of the Court as may be appointed for the territory concerned in accordance with subsection (3) of this section.

(2) Every such officer shall be in the service of the territory for which he is appointed and, subject to any law or rules of court, shall exercise such powers and discharge such duties as the President of the Court may direct.

(3) Power to make appointments to the office of Registrar and other offices of the Court for each of the Territories and to exercise disciplinary control over persons holding or acting in such offices or to remove such persons from office shall vest in the Resident Commissioner for Basutoland, Her Majesty's Commissioner for Bechuanaland or Her Majesty's Commissioner for Swaziland, as the case may be.

(4) The power to make appointments to offices conferred by the last foregoing subsection shall be construed as including power to appoint a person to perform the functions of any such office during any period during which it is vacant or the holder thereof is unable for any reason to perform those functions.".

Amendment of section 15 of principal Order.

**6.** For subsection (3) of section 15 of the principal Order there is substituted the following subsection:—

" (3) No Rule of Court which may involve an increase in the expenses of the Court shall be made except with the concurrence of the Resident Commissioner for Basutoland, Her Majesty's Commissioner for Bechuanaland and Her Majesty's Commissioner for Swaziland, respectively, but the validity of a Rule of Court shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule in which the concurrence of the said Commissioners was necessary and that they did not concur or are not expressed to have concurred in the making thereof.".

**7.**—(1) Any person who, immediately before the commencement of this Order, holds or is acting in the office of President of the Court or other judge of the Court by virtue of having been appointed thereto by the High Commissioner under the principal Order shall, as from the commencement of this Order, be deemed to have been appointed to hold or to act in that office by the Secretary of State under the principal Order as amended by this Order. Transitional.

(2) Any person who, immediately before the commencement of this Order, holds or is acting in the office of Registrar or other Officer of the Court by virtue of having been appointed thereto in pursuance of section 9 of the principal Order shall as from the commencement of this Order be deemed to have been appointed to hold or to act in that office under the provisions of the principal Order as amended by this Order.

*W. G. Agnew.*

## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order makes the necessary amendments to the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal Order in Council 1954 consequent upon the abolition of the office of High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland.