1965 No. 978

AFRICA

The Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal (Amendment No. 2) Order 1965

Made - - - -	14*th April* 1965
Laid before Parliament	23*rd April* 1965
Coming into Operation	24*th April* 1965

At the Court at Windsor Castle, the 14th day of April 1965

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 No. 2) Order 1965 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) Section 1(2) of the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal (Amendment) Order 1965(c) is revoked.

(3) This Order, the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal Orders 1954 and 1964(d) and the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal (Amendment) Order 1965 may be cited together as the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal Orders 1954 to 1965.

(4) This Order shall come into operation on 24th April 1965.

Amendment of section 1 of Order of 1954.

2. Section 1 of the principal Order is amended by the deletion of the definition of " President " in subsection (1) thereof and by the addition of the following subsection as subsection (3) thereof :—

" (3) In this Order, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.".

(a) 53 & 54 Vict. c. 37.
(b) S.I. 1954/1369 (1954 I, p. 167).
(c) S.I. 1965/133 (1965 I, p. 274).
(d) S.I. 1954/1369, 1964/1187 (1954 I, p. 167; 1964 II, p. 2759).

Replacement of sections 6 and 7 of Order of 1954.

3. Sections 6 and 7 of the principal Order are revoked and the following section is substituted therefor:—

"Composition of the Court.

6.—(1) The judges of the Court shall be—

(*a*) the President, who shall be a person qualified for appointment as a judge of the High Court of any of the Territories and who shall be appointed by a Secretary of State;

(*b*) such other judges, being persons qualified as aforesaid, as a Secretary of State may from time to time appoint; and

(*c*) the Chief Justice and other judges of the High Court of each of the Territories.

(2) A judge of the Court (other than such a judge as is referred to in subsection (1)(*c*) of this section) shall hold office during Her Majesty's pleasure:

Provided that—

(*a*) he may resign his office at any time; and

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

(3) If at any time the office of President is vacant or the President is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, and subject to the provisions of subsection (2) of this section, they shall be exercised by such one of the other judges of the Court or such other person qualified for appointment as a judge of the High Court of any of the Territories as a Secretary of State may appoint:

Provided that a person appointed under this subsection may, notwithstanding the assumption or resumption of the functions of the office of President by the holder of that office or the revocation of his appointment under subsection (2) of this section or the termination of the period for which he was appointed, continue to exercise the functions of the office of President for so long thereafter and to such extent as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him previously thereto.

(4) If any judge of the Court appointed under subsection (1)(*b*) of this section is appointed to act as President or is for any reason unable to exercise the functions of his office or if the President advises a Secretary of State that the state of business in the Court so requires, a Secretary of State may appoint a person who is qualified for appointment as a judge of the High Court of any of the Territories to act as a judge of the Court.

(5) A person appointed to act as a judge of the Court under subsection (4) of this section may, notwithstanding the revocation of his appointment under subsection (2) of this section or the termination of the period for which he

was appointed, continue to act thereafter as a judge of the Court for so long as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him previously thereto.".

W. G. Agnew.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order alters the composition of the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal, in particular by providing for the appointment of a separate President.