



Botswana Independence Act 1966

1966 CHAPTER 23

An Act to make provision for, and in connection with, the establishment of the Bechuanaland Protectorate, under the name of Botswana, as an independent republic within the Commonwealth. [3rd August 1966]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Establishment of Republic of Botswana

On 30th September 1966 (in this Act referred to as " the appointed day ") the territory which immediately before that day constitutes the Bechuanaland Protectorate shall cease to be a protectorate and shall become an independent republic under the name of Botswana; and on and after that day Her Majesty shall have no jurisdiction over that territory.

2 Operation of existing law

- (1) Subject to the following provisions of this Act, on and after the appointed day all law which, whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever, is in force on that day or has been passed or made before that day and comes into force thereafter, shall, unless and until provision to the contrary is made by Parliament or some other authority having power in that behalf, have the same operation in relation to Botswana, and persons and things belonging to or connected with Botswana, as it would have apart from this subsection if on the appointed day the Bechuanaland Protectorate had been renamed Botswana but there had been no change in its status.
- (2) Part I of the Schedule to this Act (which relates to enactments applicable to Commonwealth countries having fully responsible status) and Part II of that Schedule (which relates to enactments excepted from the operation of the preceding subsection)

shall have effect on and after the appointed day in relation to the enactments therein mentioned ; but that Schedule shall not extend to Botswana as part of its law.

- (3) Subsection (1) of this section applies to law of, or of any part of, the United Kingdom, the Channel Islands and the Isle of Man, and, in relation only to any enactment of the Parliament of the United Kingdom or any Order in Council made by virtue of any such enactment whereby any such enactment applies in relation to the Bechuanaland Protectorate, to law of any other country or territory to which that enactment or Order extends.

3 Consequential modifications of British Nationality Acts

- (1) Subject to subsections (2) and (6) of this section, the British Nationality Acts 1948 to 1965 shall have effect on and after the appointed day as if in section 1(3) of the British Nationality Act 1948 (Commonwealth countries having separate citizenship) there were added at the end the words " and Botswana ", and as if in Schedule 2 to the British Protectorates, Protected States and Protected Persons Order 1965 the words " Bechuanaland Protectorate " were omitted.
- (2) A person who immediately before the appointed day is for the purposes of those Acts and of the said Order of 1965 a British protected person by virtue of his connection with the Bechuanaland Protectorate shall not cease to be such a British protected person for any of those purposes by reason of anything contained in the preceding provisions of this Act, but shall so cease upon his becoming a citizen of Botswana.
- (3) Except as provided by section 4 of this Act, any person who immediately before the appointed day is a citizen of the United Kingdom and Colonies shall on that day cease to be such a citizen if he becomes on that day a citizen of Botswana.
- (4) Section 6(2) of the British Nationality Act 1948 (registration as citizens of the United Kingdom and Colonies of women who have been married to such citizens) shall not apply to a woman by virtue of her marriage to a person who on the appointed day ceases to be such a citizen under subsection (3) of this section, or who would have done so if living on the appointed day.
- (5) So much of the British Protectorates, Protected States and Protected Persons Order 1965 as relates to former protectorates, and section 5 of the British Nationality (No. 2) Act 1964 in so far as that Order was made by virtue of that section, shall have effect in relation to the Bechuanaland Protectorate as if that Order had been made immediately after the appointed day; and accordingly after the appointed day that Order shall have effect as if, at the beginning of Part I of Schedule 4 thereto, there were inserted in the first column the words " Bechuanaland Protectorate " and in the second column the words " Botswana Independence Act 1966, section 3(2) ".
- (6) Nothing in subsection (1) of this section shall affect the meaning of " protectorate " in any law or instrument passed or made before the passing of this Act, not being a law or instrument contained in or made under any of the British Nationality Acts 1948 to 1965.

4 Retention of citizenship of United Kingdom and Colonies by certain citizens of Botswana

- (1) Subject to subsection (5) of this section, a person shall not cease to be a citizen of the United Kingdom and Colonies under section 3(3) of this Act if he, his father or his father's father—
 - (a) was born in the United Kingdom or in a colony; or
 - (b) is or was a person naturalised in the United Kingdom and Colonies; or
 - (c) was registered as a citizen of the United Kingdom and Colonies; or
 - (d) became a British subject by reason of the annexation of any territory included in a colony.
- (2) A person shall not cease to be a citizen of the United Kingdom and Colonies under the said section 3(3) if either—
 - (a) he was born in a protectorate or protected state, or
 - (b) his father or his father's father was so born and is or at any time was a British subject.
- (3) A woman who is the wife of a citizen of the United Kingdom and Colonies shall not cease to be such a citizen under the said section 3(3) unless her husband does so.
- (4) Subject to subsection (5) of this section, the reference in subsection (1)(b) of this section to a person naturalised in the United Kingdom and Colonies shall include a person who would, if living immediately before the commencement of the British Nationality Act 1948, have become a person naturalised in the United Kingdom and Colonies by virtue of section 32(6) of that Act (persons given local naturalisation in a colony or protectorate before the commencement of that Act).
- (5) Any reference in this section to a colony, a protectorate or a protected state is a reference to a territory which is a colony, a protectorate or a protected state, as the case may be, within the meaning of the British Nationality Act 1948, on the appointed day, and accordingly does not include a reference to Botswana ; and subsection (1) of this section shall not apply to a person by virtue of any certificate of naturalisation granted or registration effected by the governor or government of a territory outside the United Kingdom which is not such a colony, protectorate or protected state on the appointed day.
- (6) Part III of the British Nationality Act 1948 (supplemental provisions) shall have effect for the purposes of this section as if this section were included in that Act.

5 Judicial Committee of Privy Council

- (1) Her Majesty may by Order in Council confer on the Judicial Committee of the Privy Council such jurisdiction and powers in respect of appeals from any court having jurisdiction under the law of Botswana as may be specified in, or determined in accordance with any provisions contained in, the Order in Council.
- (2) Any Order in Council under this section may contain such incidental and supplemental provisions as appear to Her Majesty to be expedient.
- (3) Except so far as otherwise provided by or in accordance with an Order in Council under this section, and subject to such modifications as may be so provided, the Judicial Committee Act 1833 shall apply in relation to appeals and other proceedings in respect

of which any jurisdiction is conferred under this section as it applies in relation to appeals to Her Majesty in Council.

- (4) Provisions made in pursuance of this section may be included in any Order in Council revoking the Bechuanaland (Constitution) Order 1965, as amended by any subsequent Order in Council.
- (5) An Order in Council under this section may be made before, on or after the appointed day, and so much of any Order in Council as is made under this section may be varied or revoked by a further Order in Council, whether made before, on or after that day; but any Order in Council made under this section on or after the appointed day shall not extend to Botswana as part of its law.

6 Pending appeals to Her Majesty in Council

- (1) Without prejudice to any power conferred by or under section 5 of this Act, Her Majesty may by Order in Council confer on the Judicial Committee of the Privy Council such jurisdiction in respect of appeals to Her Majesty in Council from the Basutoland, Bechuanaland Protectorate and Swaziland Court of Appeal, being appeals which are pending immediately before the appointed day, and in which the records have been registered in the Office of the Privy Council before that day, as appears to Her to be appropriate for giving effect to any arrangements to which this subsection applies.
- (2) The preceding subsection applies to any arrangements—
 - (a) made before the appointed day between Her Majesty's Government in the United Kingdom and the Government of the Bechuanaland Protectorate, or
 - (b) made on or after the appointed day between Her Majesty's Government in the United Kingdom and the Government of Botswana,
 for any such appeals to be continued before and disposed of by the said Committee.
- (3) An Order in Council under this section may, if the arrangements so require, direct that any appeal continued before the Judicial Committee of the Privy Council under this section shall abate on a date specified in the Order unless it has been heard by the Committee before that date; and an Order containing such a direction may contain provisions to facilitate the hearing of any such appeal before that date, including provisions as to the sittings of the said Committee and provisions for expediting the steps to be taken by the parties preliminary to the hearing of an appeal.
- (4) An Order in Council under this section may determine the practice and procedure to be followed on any appeal continued before the said Committee under this section, and in particular may provide for the form of any report or recommendation to be made by the Judicial Committee of the Privy Council in the exercise of the jurisdiction conferred on that Committee under this section, and for its transmission to such authority in Botswana as may be specified in the Order.
- (5) Except so far as otherwise provided by an Order in Council under this section, and subject to such modifications as may be so provided, the Judicial Committee Act 1833 shall apply in relation to appeals continued before the Judicial Committee of the Privy Council under this section as it applied in relation to those appeals before the appointed day.

7 Provisions as to Orders in Council and other instruments

- (1) An Order in Council or other instrument made under any Act of Parliament passed before the appointed day, other than this Act, which varies or revokes a previous Order in Council or instrument in consequence of the change in the status of the Bechuanaland Protectorate taking effect on the appointed day, and any Order in Council under section 6 of this Act, may, if made after the appointed day, be made so as to take effect on the appointed day.
- (2) An Order in Council under section 6 of this Act—
 - (a) may contain such transitional or other incidental or supplemental provisions as appear to Her Majesty to be necessary or expedient;
 - (b) may be varied or revoked by a subsequent Order in Council; and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8 Short title and interpretation

- (1) This Act may be cited as the Botswana Independence Act 1966.
- (2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

SCHEDULE

Section 2.

AMENDMENTS NOT AFFECTING THE LAW OF BOTSWANA

PART I

EXTENSION OF CERTAIN ENACTMENTS APPLICABLE TO COMMONWEALTH COUNTRIES HAVING FULLY RESPONSIBLE STATUS

Diplomatic immunities

- 1 In section 461 of the Income Tax Act 1952 (exemption from income tax in the case of certain Commonwealth representatives and their staffs)—
 - (a) in subsection (2), before the words, " for any state " there shall be inserted the words " or Botswana ";
 - (b) in subsection (3), before the words " and ' Agent-General . there shall be inserted the words " or Botswana ".
- 2 In section 1(6) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952, before the words " and the Republic of Ireland" there shall be inserted the word " Botswana ".
- 3 In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the words " and the Republic of Ireland " there shall be inserted the word " Botswana ".

Financial

- 4 In section 2 of the Import Duties Act 1958—
 - (a) in subsection (4), before the words " together with " there shall be inserted the word " Botswana " ; and
 - (b) in subsection (9), for the words "the Bechuanaland Protectorate ", in each place where they occur, there shall be inserted the word " Botswana ".

Armed forces

- 5 In the definitions of " Commonwealth force " in section 225(1) of the Army Act 1955 and section 223(1) of the Air Force Act 1955, and in the definition of " Commonwealth country " in section 135(1) of the Naval Discipline Act 1957, at the end there shall be added the words " or Botswana ".
- 6 In the Visiting Forces (British Commonwealth) Act 1933, section 4 (attachment and mutual powers of command) shall apply in relation to forces raised in Botswana as it applies in relation to forces raised in Dominions within the meaning of the Statute of Westminster 1931.
- 7 In the Visiting Forces Act 1952, in section 1(1)(a) (countries to which that Act applies), at the end there shall be added the words " Botswana or ", and, until express provision with respect to Botswana is made by Order in Council under section 8 of that Act (application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of Botswana.

- 8 (1) In section 84(2) of the Offices, Shops and Railway Premises Act 1963 (exclusion of application to visiting forces) before the words "and any country " there shall be inserted the word " Botswana ".
- (2) In section 78(2) of the Office and Shop Premises Act (Northern Ireland) 1966 (exclusion of application to visiting forces) before the words " and any country" there shall be inserted the word " Botswana ".
- (3) For the purposes of section 6 of the Government of Ireland Act 1920 (conflict of laws) the last preceding sub-paragraph shall be deemed to be contained in an Act passed before the day appointed for the purposes of that section.

Commonwealth Institute

- 9 In section 8(2) of the Imperial Institute Act 1925, as amended by the Commonwealth Institute Act 1958 (power to vary the provisions of the said Act of 1925 if an agreement for the purpose is made with the governments of certain territories which for the time being are contributing towards the expenses of the Commonwealth Institute) at the end there shall be added the words " and Botswana ".

PART II

EXCEPTIONS FROM S.2(1) OF ACT

- 10 Section 2(1) of this Act shall not apply to the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.
- 11 Notwithstanding anything in section 2(1) or section 3(6) of this Act.—
- (a) the Colonial Development and Welfare Act 1959 shall not apply in relation to Botswana as if it were a colony within the meaning of that Act, and
- (b) section 2(7)(b) of the Civil Aviation (Licensing) Act 1960 shall not apply in relation to Botswana as if it were a protectorate within the meaning of that Act.