



Swaziland Independence Act 1968

1968 CHAPTER 56

An Act to make provision for, and in connection with, the attainment by Swaziland of fully responsible status within the Commonwealth. [26th July 1968]

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 Fully responsible status of Swaziland

On 6th September 1968 (in this Act referred to as " the appointed day ") Swaziland shall cease to be a protected state; and on and after that day Her Majesty shall have no jurisdiction over Swaziland.

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 Swaziland, and persons and things belonging to or connected with Swaziland, as it would have apart from this subsection if there had been no change in the status of Swaziland on the appointed day.
- (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 Swaziland 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 Swaziland, to law of any other country or territory to which that enactment or Order extends.

3 Consequential modifications of British Nationality Acts

- (1) The British Nationality Acts 1948 to 1965 shall have effect on and after the appointed day as if—
 - (a) in section 1(3) of the British Nationality Act 1948 (Commonwealth countries having separate citizenship) there were added at the end the words " and Swaziland ", and
 - (b) in Article 9(1) of the British Protectorates, Protected States and Protected Persons Order 1965, as amended by the British Protectorates, Protected States and Protected Persons (Amendment) Order 1967, the words " and to Swaziland ", and in Schedule 3 to the said Order of 1965, as so amended, the entry relating to Swaziland, were omitted.
- (2) 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 on that day he is a citizen of Swaziland.
- (3) 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 (2) of this section, or who would have done so if living on the appointed day.
- (4) Nothing in subsection (1) of this section shall affect the meaning of " protected state " 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.
- (5) In accordance with section 3(3) of the West Indies Act 1967, it is hereby declared that this and the next following section extend to all associated states.

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

- (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(2) of this Act if he, his father or his father's father—
 - (a) was born in the United Kingdom or in a colony or an associated state; 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(2) 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(2) 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) In this section—
 - (a) references to a colony shall be construed as not including any territory which, on the appointed day, is not a colony for the purposes of the British Nationality Act 1948 as that Act has effect on that day, and
 - (b) references to a protectorate or protected state shall be construed as not including any territory which, on the appointed day, is not a protectorate or a protected state (as the case may be) for the purposes of that Act as it has effect on that day, and accordingly do not include Swaziland;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 which by virtue of this subsection is excluded from references in this section to a colony, protectorate or protected state.
- (6) Part III of the British Nationality Act 1948 (supplemental provisions) as in force at the passing of this Act shall have effect for the purposes of this section as if this section were included in that Act.

5 Pending appeals to Her Majesty in Council

- (1) 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 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 Majesty to be appropriate for giving effect to any arrangements to which this subsection applies.
- (2) The preceding subsection applies to any arrangements made (whether before, on or after the appointed day) between Her Majesty's Government in the United Kingdom and the Government of Swaziland 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 that Committee in the exercise of the jurisdiction conferred on the Committee

under this section, and for its transmission to such authority in Swaziland 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.

6 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 status of Swaziland taking effect on the appointed day, and any Order in Council under section 5 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 5 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.

7 Interpretation

- (1) In this Act, and in any amendment made by this Act in any other enactment, " Swaziland " means the territory which immediately before the appointed day constitutes the Kingdom of Swaziland.
- (2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

8 Short title

This Act may be cited as the Swaziland Independence Act 1968.

SCHEDULE

Section 2.

AMENDMENTS NOT AFFECTING THE LAW OF SWAZILAND

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 Swaziland ";
 - (b) in subsection (3), before the words " and ' Agent-General' " there shall be inserted the words " or Swaziland ".
- 2 In section 1(6) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952, before the word " and" in the last place where it occurs there shall be inserted the word " Swaziland ".
- 3 In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the word " and" in the last place where it occurs there shall be inserted the word " Swaziland ".

Financial

- 4 In section 2(4) of the Import Duties Act 1958, before the words " together with" there shall be inserted the word " Swaziland ".

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 Swaziland ".
- 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 Swaziland 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 " Swaziland or " , and, until express provision with respect to Swaziland 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 Swaziland.
- 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 " Swaziland ".

Status: This is the original version (as it was originally enacted).

- (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 " Swaziland " .
- (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.

Copyright

- 9 If the Copyright Act 1911, so far as in force in the law of Swaziland, is repealed or amended by that law at a time when sub-paragraph (2) of paragraph 39 of Schedule 7 to the Copyright Act 1956 (which applies certain provisions of that Act in relation to countries to which the said Act of 1911 extended) is in force in relation to Swaziland, the said sub-paragraph (2) shall thereupon cease to have effect in relation thereto.

Commonwealth Institute

- 10 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 Swaziland " .

PART II

EXCEPTIONS FROM SECTION 2(1)

- 11 Section 2(1) of this Act shall not apply—
- (a) to the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957, or
 - (b) to the Fugitive Offenders Act 1967.
- 12 Notwithstanding anything in section 2(1) of this Act, the Colonial Development and Welfare Act 1959 shall not apply in relation to Swaziland as if it were a colony within the meaning of that Act.