

BECHUANALAND PROTECTORATE.

No. 19 of 1926.

[Promulgated 16th July, 1926.]

PROCLAMATION

By His Excellency the High Commissioner

Entitled the Bechuanaland Protectorate Native Marriages
Proclamation, 1926.

Whereas it is expedient to make further provision in respect of the dissolution of marriages between natives solemnized according to the laws of the Bechuanaland Protectorate and in respect of the property of natives so married, and to remove doubts as to the validity of orders and decrees of the Courts of the Bechuanaland Protectorate in proceedings for the dissolution or annulment of such marriages heard and determined by them before the taking effect of this Proclamation.

Now therefore under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. Notwithstanding anything contained in section *eight* of the Proclamation of 10th June 1891 or in Proclamation No. 2 of 1896 or in the Bechuanaland Protectorate Special Court Proclamation 1912 the Courts of Resident Magistrate shall have and shall be deemed at all times to have had jurisdiction in all civil actions for divorce or for a declaration of nullity of marriage where both spouses are natives and where the marriage has been solemnized by a marriage officer or by a minister of the Christian religion recognized for that purpose by the Administration of the Bechuanaland Protectorate. Such actions shall not be tried or adjudicated upon by any native chief.

2. An appeal shall lie to the Special Court from the decision of a Court of Resident Magistrate in any action mentioned in section *one* subject to the provisions governing appeals to that Court in civil cases.

3. (1) Where at the taking effect of this Proclamation a marriage subsists between native spouses having been duly solemnized by a marriage officer or according to the rites of the Christian religion if contracted before the first day of April 1917 and if contracted on or after that date having been solemnized by a marriage officer appointed under the Bechuanaland Protectorate Marriage Proclamation 1917 and where on the dissolution of such marriage by decree of a competent Court or by the death of one of the spouses a question arises as to the disposal or devolution of any property of either or both of the spouses such question shall be heard and determined in accordance with the law of the Bechuanaland Protectorate by the Court of Resident Magistrate having jurisdiction in ordinary civil cases unless it shall appear to that Court on application made to it that regard being had to the mode of life of the spouses during the subsistence of the marriage it would be just and equitable that such property should be dealt with according to native law and custom by a native chief having jurisdiction in respect thereof.

(2) Any person aggrieved by the decision of the Court on an application made under sub-section (1) whether or not he was a party to such application may appeal against that decision to the Court of Resident Commissioner subject to any rules made by the Resident Commissioner governing the procedure in such appeals.

4. This Proclamation may be cited as the Bechuanaland Protectorate Native Marriages Proclamation 1926 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Durban this Tenth day of July, One thousand Nine hundred and Twenty-six.

ATHLONE,

High Commissioner.

By Command of His Excellency the
High Commissioner.

B. E. H. CLIFFORD,

Imperial Secretary.