

BECHUANALAND PROTECTORATE.

HIGH COMMISSIONER'S NOTICE No. 57 of 1938.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to declare that the subjoined Order of His Majesty in Council, dated the 21st December, 1937, and entitled the British Protectorates (Geneva Convention) Order in Council, 1937, shall have force and take effect in the Bechuanaland Protectorate as from the 8th April, 1938.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,

Administrative Secretary.

High Commissioner's Office,
Capetown, 8th April, 1938.

STATUTORY RULES AND ORDERS,
1937, No. 1219.

GENEVA CROSS.

THE BRITISH PROTECTORATES (GENEVA CONVENTION) ORDER IN
COUNCIL, 1937.

AT THE COURT AT BUCKINGHAM PALACE,

the 21st day of December, 1937.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

MR. ERNEST BROWN.

LORD RUSHCLIFFE.

SIR FELIX CASSEL.

Whereas by the British Protectorates (Geneva Convention) Order in Council, 1917, provision was made for the carrying into effect within the British Protectorates specified in the Schedule to that Order of certain provisions of the Second Geneva Convention:

And whereas by the Geneva Convention Act, 1937, provision has been made to enable effect to be given to Article 28 of the International Convention for the amelioration of the condition of the wounded and sick in armies in the field done at Geneva on the twenty-seventh day of July, nineteen hundred and twenty-nine, for the purposes connected therewith:

And whereas by treaty, grant, usage, sufferance and in other lawful means His Majesty the King has power and jurisdiction in the British Protectorates specified in the Schedule to this Order (hereinafter referred to as the "Scheduled Protectorates"):

And whereas it is expedient that provision should be made to enable effect to be given within the Scheduled Protectorates to Article 28 of the said International Convention:

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as "The British Protectorates (Geneva Convention) Order in Council, 1937", and this Order and the British Protectorates (Geneva Convention) Order in Council, 1917, may be cited together as "The British Protectorates (Geneva Conventions) Orders in Council, 1917 and 1937".

2. (1) This Order shall apply to the Protectorates specified in the Schedule hereto.

(2) In this Order—

“ Protectorate ” means any Scheduled Protectorate;

“ Governor ” means the person for the time being administering the Government of the Protectorate, or in the case of Zanzibar the British Resident or the person lawfully discharging his functions;

“ Attorney-General ” means the Principal Law Officer of the Protectorate, and, if there shall be no such Law Officer in or for any Scheduled Protectorate, then the Principal Executive Officer next to the Governor of such Protectorate;

“ Gazette ” means the official *Government Gazette* of the Protectorate.

3. (1) It shall not be lawful for any person without the authority of the Governor, to use for the purposes of his trade or business, or for any other purpose whatsoever, in the Protectorate—

(a) any design consisting of a white or silver cross on a red ground, none of the limbs of which extends to the margin of the ground, being the cross comprised in the Arms of the Swiss Confederation; or

(b) any design being a colourable imitation of the design mentioned in the last foregoing paragraph; or

(c) any design being a colourable imitation of the heraldic emblem of the red cross on a white ground mentioned in sub-section (1) of section *three* of the British Protectorates (Geneva Convention) Order in Council, 1917, or any words so nearly resembling the words “ Red Cross ” or “ Geneva Cross ” as to be capable of being understood as referring to the said emblem.

(2) If any person contravenes the provisions of sub-section (1) of this section, he shall, subject as hereafter provided, be guilty of an offence under this Order and liable on summary conviction to a fine not exceeding ten pounds and to forfeit any goods upon or in connection with which the design or words was or were used.

(3) Nothing in this section shall apply to a trade mark registered before the twenty-third day of December, nineteen hundred and thirty-one, and consisting of or containing any such design as is mentioned in paragraph (a) or paragraph (b) of sub-section (1) of this section and where a person is charged with using such a design for any purpose and it is proved that he used it otherwise than as or as part of a trade mark registered as aforesaid, it shall be a defence for him to prove—

(a) that he lawfully used that design for that purpose before the said twenty-third day of December; or

(b) in a case where he is charged with using the design upon goods, that the design had been applied to the goods before he acquired them by some other person who had manufactured or dealt with the goods in the course of trade, and that that other person lawfully used the design upon similar goods before the said twenty-third day of December.

(4) Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) Proceedings under this section shall not be instituted in the Protectorate without the consent of the Attorney-General.

4. This Order shall be published in the *Gazette* or if there shall be no *Gazette* in or for the Protectorate, then in such manner as the Governor shall direct, and shall come into operation on a day to be fixed by the Governor.

M. P. A. Hankey.

SCHEDULE.

Bechuanaland Protectorate.
Gambia Protectorate.
Kenya Protectorate.
Nigeria Protectorate.
Northern Rhodesia.
Northern Territories of the Gold Coast.
Nyasaland Protectorate.
Sierra Leone Protectorate.
British Solomon Islands Protectorate.
Somaliland Protectorate.
Swaziland.
Uganda Protectorate.
Zanzibar Protectorate.