

BECHUANALAND PROTECTORATE.  
HIGH COMMISSIONER'S NOTICE  
No. 40 of 1943.

It is hereby notified for general information that, under and by virtue of the powers vested in him by sub-section (1) of section *ninety-one* of the Bechuanaland Protectorate Subordinate Courts Proclamation, 1938 (No. 51 of 1938), His Excellency the High Commissioner has been pleased to amend the Rules of Court published under High Commissioner's Notice No. 90 of 1941, as follows:—

1. Order XXXIII of the said Rules is hereby amended as follows:—

- (1) The preamble to the said Order is amended by deleting the words and figures "Orders VII to XVIII" and substituting therefor the words and figures "Orders VII to IX and XI to XVIII".
- (2) Rule 1 of the said Order is deleted and the following Rule is substituted therefor:—

" 1. (1) The process of the court for commencing an action shall be by summons calling upon the defendant on a specified day to answer the claim of the plaintiff, which day shall not be less than five days, plus an additional day for each ten miles distance of the place of service from the court-house, but not to exceed 21 days in all, after service of the summons.

(2) The defendant if he intends to defend the action shall, two days before the return day of the summons, enter an appearance with the clerk of the court, and the action shall, on the return day, be postponed by the court, without the necessity for the parties or their witnesses appearing, to some suitable date for hearing, which date shall be taken to mean 'the day appointed for that purpose' in Rule 8.

(3) The clerk of the court shall, on receiving a notice of appearance, notify the plaintiff or his attorney of that fact and, in the case of the hearing being postponed as provided in sub-rule (2) of this Rule, he shall notify the parties or their attorneys of the date appointed for hearing."

- (3) Rule 2 of the said Order is amended by adding thereto the following paragraph:—

" (c) forms of—

- (i) consent to judgment;
- (ii) appearance to defend."

- (4) Sub-rule (1) of Rule 4 of the said Order is amended by deleting the words "appearance of the parties" and substituting therefor the words "the hearing".
- (5) Sub-rule (1) of Rule 8 of the said Order is deleted and the following sub-rule is substituted therefor:—

“(1) If the defendant, having entered appearance and not having consented to judgment for the whole amount claimed in the summons, does not appear before the court on the day appointed for that purpose, then the court, upon the request of the plaintiff, may proceed to hear the said plaintiff and his witnesses and shall give judgment thereon.”

2. For the purpose of actions falling under Order XXXIII, but not otherwise, Order X of the said Rules is hereby amended as follows:—

- (1) Sub-rule (4) of Rule 1 of the said Order is amended by deleting the words “or by his attorney of record”.
- (2) Rule 2 of the said Order is amended by deleting the words and figures “Rule 1 of Order IX” and substituting therefor the words and figures “sub-rule (2) of Rule 1 of Order XXXIII”.
- (3) Rule 3 of the said Order is deleted.
- (4) Rule 4 of the said Order is amended—

(a) by deleting sub-rule (1) and substituting therefor the following sub-rule:—

“(1) When the defendant has failed to enter appearance to defend and the plaintiff has requested the entry of judgment, or when the defendant has consented to judgment, the clerk of the court shall, subject to the provisions of sub-rules (3), (4), (5) and (6) of this rule, enter judgment in terms of the plaintiff's request or of the defendant's consent, as the case may be.”;

(b) by deleting sub-rule (2);

(c) by deleting from sub-rule (4) the words and figure “or Rule 3”;

(d) by inserting, immediately after paragraph (b) of sub-rule (6), the following paragraph:—

“(b<sup>1</sup>) if a judgment be sought under paragraph (a) or paragraph (b) of this sub-rule in a matter where the cause of action relates to or is governed by the provisions of Proclamation No. 35 of 1932, call upon the plaintiff to produce evidence, either written or verbal, to satisfy the court that the provisions of the said Proclamation have been complied with;”;

(e) by deleting, in the third line of sub-rule (7), the words “or to deliver a plea”.

By Command of His Excellency  
the High Commissioner.

H. LESTER SMITH,  
for Administrative Secretary.

High Commissioner's Office,  
Cape Town, 17th February, 1943.