

ORDERS IN COUNCIL

At the Court at Windsor.

The 9th day of May 1891.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT,

LORD STEWARD,

EARL OF COVENTRY.

Preamble.

WHEREAS the territories of South Africa situate within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen:

And whereas by treaty, grant, usage, sufferance, and other lawful means Her Majesty has power and jurisdiction in the said territories:

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

Limits of the Order.

1. The limits of this Order are:—The parts of South Africa bounded by British Bechuanaland, the German Protectorate, the Rivers Chobe and Zambesi, the Portuguese Possessions, and the South African Republic.

Powers of the High Commissioner.

2. The High Commissioner may on Her Majesty's behalf exercise all powers and jurisdiction which Her Majesty, at any time before or after the date of this Order, had or may have within the limits of this Order, and to that end may take or cause to be taken all such measures, and may do or cause to be done all such matters and things within the limits of this Order as are lawful, and as in the interest of Her Majesty's service he may think expedient, subject to such Instructions as he may from time to time receive from Her Majesty or through a Secretary of State.

High Commissioner may appoint officers.

3. The High Commissioner may appoint so many fit persons as in the interest of Her Majesty's Service he may think necessary to be Deputy Commissioners, or Resident Commissioners, or Assistant Commissioners, or Judges, Magistrates, or other officers, and may define from time to time the districts within which such officers shall respectively discharge their functions.

Such officers may exercise the powers assigned to them.

Ever such officer may exercise such powers and authorities as the High Commissioner may assign to him, subject nevertheless to such directions and instructions as the High Commissioner may from time to time think fit to give him. The appointment of such officers shall not abridge, alter, or affect the right of the High Commissioner to execute and discharge all the powers and authorities hereby conferred upon him.

The High Commissioner may remove any officer so appointed.

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High Commissioner may legislate by Proclamation.

4. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by Proclamation provide for the administration of justice, the raising of revenue, and generally for the peace, order and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

Native laws to be respected.

The High Commissioner in issuing such Proclamations shall respect any native laws or customs by which the civil relations of any native chiefs, tribes or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

Publication of Proclamations.

5. Every Proclamation of the High Commissioner shall be published in the *Gazette*, and shall from and after the date of such publication, or from and after such other date as may be mentioned in such Proclamation, and thereafter until disallowed by His Majesty or repealed or modified by any subsequent Proclamation, have effect as if contained in this order.¹

Disallowance of Proclamations.

6. Her Majesty may disallow any such Proclamation wholly or in part, and may signify such disallowance through a Secretary of State, and upon such disallowance being publicly notified by the High Commissioner in the *Gazette* the provisions so disallowed shall, from and after a date to be mentioned in such notification, cease to have effect, but without prejudice to anything theretofore lawfully done thereunder.²

Courts of British Bechuanaland may exercise jurisdiction under this Order.

7. The Courts of British Bechuanaland shall have in respect of matters occurring within the limits of this Order the same jurisdiction civil and criminal, original and appellate, as they respectively possess from time to time in respect of matters occurring within British Bechuanaland, and the judgments, decrees, orders, and sentences of any such Court made or given in the exercise of the jurisdiction hereby conferred may be enforced and executed, appeals therefrom may be had and prosecuted in the same way as if the judgment, decree, order or sentence, had been made or given under the ordinary jurisdiction of the Court.

But only to the extent directed by the Governor.

But the jurisdiction hereby conferred shall only be exercised by such Courts, and in such manner and to such extent, as the Governor of British Bechuanaland shall by Proclamation from time to time direct.

Jurisdiction exercisable otherwise than under this Order to remain in force.

8. Subject to any Proclamation made under this Order any jurisdiction exercisable otherwise than under this Order, whether by virtue of any Statute or Order in Council, or of any Treaty, or otherwise, and whether exercisable by Her Majesty, or by any person on Her behalf, or by any Colonial or other Court, or under any Commission, or under any Charter granted by Her Majesty, shall remain in full force.

¹Printed as amended by Order in Council of 18th October, 1909.

²Printed as amended by Order in Council of 30th July, 1891.

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Judicial notice to be taken of this Order.

9. Judicial notice shall be taken of this Order, and of the commencement thereof, and of any Proclamation made under this Order, and published in the *Gazette*, and of any Treaties affecting the territories within the limits of this Order, and published in the *Gazette*, or contained in papers presented to both Houses of Parliament by command of Her Majesty.

Commencement and publication of Order.

10. This Order shall be published in the *Gazette*, and shall thereupon commence and come into operation; and the High Commissioner shall give directions for the publication of this Order at such places and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within the limits of this Order.

Revocation of Orders in Council of 27th January, 1885, and 30th June, 1890.

11. The Orders in Council of the 27th day of January, 1885, for the establishment of Civil and Criminal Jurisdiction in Bechuanaland, and of the 30th day of June, 1890, providing for the exercise of Her Majesty's Jurisdiction in certain Territories in South Africa, shall continue in force until the commencement of this Order and be thereupon revoked, but without prejudice to anything lawfully done thereunder, and any Proclamation theretofore issued under the said Orders shall continue in operation until repealed or altered by any Proclamation of the High Commissioner under this Order.

Powers to revoke, &c., this Order.

12. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

Interpretation of Terms.

13. In this Order, unless the subject or context otherwise requires,—
“Her Majesty” includes Her Majesty's heirs and successors.

“Secretary of State” means one of Her Majesty's Principal Secretaries of State.

“High Commissioner” means Her Majesty's High Commissioner for the time being for South Africa.

“Treaty” includes any existing or future Treaty, Convention, or agreement between Her Majesty and any civilised Power, or any native tribe, people, Chief, or King, and any Regulation appended to any such Treaty, Convention, or Agreement.

“Gazette” means any official *Gazette* published by authority of the High Commissioner, and until such *Gazette* is instituted, means the Cape of Good Hope *Government Gazette*.

C. L. PEEL.