

# BECHUANALAND PROTECTORATE.

No. 36 of 1922.

[Promulgated 23rd June, 1922.]

## PROCLAMATION

By His Royal Highness the High Commissioner

Entitled "The Bechuanaland Protectorate Opium and Habit-forming Drugs Regulation Proclamation, 1922."

Whereas it is desirable to restrict and regulate the importation into the Bechuanaland Protectorate (herein after referred to as "the territory") and the exportation therefrom and the production and use therein of opium and other habit-forming drugs;

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

1. (1) Every person who at the date of the taking effect of this Proclamation, is lawfully entitled to keep for sale and sell within the territory any habit-forming drug shall, prior to a date to be fixed by the Resident Commissioner and notified in the *Gazette* make a return to the Assistant Commissioner of the district in which such person resides, or in which his business is situated, of all stocks of such drugs in his possession. The Assistant Commissioner, on being satisfied of the accuracy of the said return, shall issue a permit authorizing such person to possess the stocks so declared, and to sell or dispose of the same so long as he continues to be entitled to keep such drugs for sale.

(2) Every such return shall be made in a form prescribed by regulation.

(3) Any such person who fails to make such return within the period prescribed as aforesaid, or who wilfully supplies a misleading or an incorrect return, or who sells, supplies, or is found in possession of any such drug without being in possession of a permit issued as in this section provided, shall be liable on conviction to the penalties mentioned in section *seven*.

2. (1) Save as in this Proclamation is provided no person shall—

(a) import, export, produce or manufacture, or assist in the importation, exportation, production or manufacture of any habit-forming drug; or

(b) import, cultivate, or export or assist in the importation, cultivation or exportation of any plant from which such drug can be extracted, derived, produced or manufactured; or

(c) administer, give, sell, barter, exchange, or otherwise supply, or use, accept, purchase, take in exchange or otherwise receive any such drug or plant anything to the contrary in any other law notwithstanding.

(2) Notwithstanding anything contained in this Proclamation no person shall import into the territory or export therefrom any prepared opium.

3. (1) A duly registered medical practitioner, dentist or chemist and druggist or duly qualified veterinary surgeon may, when authorized thereto by permit issued under the authority of the Resident Commissioner by such officer or officers as may from time to time be designated by him, import from without the territory or acquire by purchase or otherwise from a licensed producer or manufacturer within the territory stated quantities of any such drug. Such permit shall be in the form and shall contain such conditions as may be prescribed by regulation.

(2) Any such drug imported into the territory or purchased or otherwise acquired, except on the authority of such permit, may be seized on the order of the Resident Commissioner and declared by him without legal proceedings to be forfeited.

(3) A duly registered medical practitioner, dentist, chemist and druggist or a duly qualified veterinary surgeon may, when authorized thereto by permit issued under the authority of the Resident Commissioner by such officer or officers as may from time to time be designated by him, export a stated quantity of any such drug. Such permit shall be in the form and shall contain such conditions as may be prescribed by regulation.

4. On being satisfied that there is a reasonable and legitimate demand for medical, surgical, dental or veterinary purposes for any drug which can be extracted, derived, produced or manufactured within the territory, the Resident Commissioner may in his discretion authorize the issue of—

(a) permits for the importation, or licences for the cultivation of plants from which such drug can be extracted, derived, produced, or manufactured;

(b) licences for the extraction, derivation, production or manufacture of such drug.

Every such permit or licence, as the case may be, shall set forth the place from which such plants may be imported or the place at which they may be cultivated or at which such drug may be extracted, derived, produced, or manufactured, and shall contain such conditions as to cultivation, extraction, derivation, production, manufacture, importation, exportation, storage distribution and sale as the Resident Commissioner may deem necessary for the purpose of giving effect to the objects of this Proclamation.

5. (1) Any such drug imported or acquired by a medical practitioner, dentist, or veterinary surgeon, or, as herein after provided, sold or supplied by a chemist and druggist to a medical practitioner, dentist or veterinary surgeon shall be used by such medical practitioner, dentist or veterinary surgeon exclusively for professional purposes in the course of his practice.

(2) Any such drug imported or acquired by a chemist and druggist may be sold or supplied to a duly registered medical practitioner or dentist or to a duly qualified veterinary surgeon for professional purposes or to another chemist and druggist for purposes authorized by this Proclamation on the written order of such medical practitioner, dentist, veterinary surgeon, or chemist and druggist; and may also be sold or supplied for strictly medical, surgical, dental or veterinary purposes—

- (a) upon a written prescription of a medical practitioner, dentist, or veterinary surgeon; or
- (b) upon a written order of a medical practitioner to or on behalf of any hospital, nursing home, or sanatorium for use therein exclusively for such medical, surgical or dental purposes as are named in the order; or
- (c) when it occurs as an incidental ingredient in any recognized pharmacopoeial preparation or in any medicinal preparation which the High Commissioner by notice in the *Gazette* declares to be a recognized medicinal preparation for the purpose of this section upon a written order of the chemist or druggist requiring the same for the purpose of making such preparation.

Every such order or prescription shall state—

- (i) the quantity and description of such drug which may be sold or supplied thereon;
- (ii) the name and address of the person for or by whom such drug is prescribed or required or the name and address of the institution for which it is ordered, as the case may be;
- (iii) the full name and address and the profession or qualification of the person signing such order or prescription;
- (iv) the date of issue of such order or prescription.

Every such order or prescription shall be deemed to authorize one issue only of the drug mentioned therein, and shall be preserved and retained by the person supplying or selling the drug, and such person shall not supply a copy of such order or prescription or allow a copy to be made of the same except upon the order of the Resident Commissioner.

(3) Every chemist and druggist and every medical practitioner, dentist, or veterinary surgeon who compounds or dispenses medicines shall cause to be entered in a book to be kept exclusively for the purpose—

- (a) the quantity of any of the drugs possessed, imported, or acquired by him as aforesaid;
- (b) the date of the importation or acquisition;
- (c) the person from whom and the place from which the same were imported or acquired;
- (d) the quantity which has been disposed of and the manner in which and the person to whom such disposal has taken place.

Every such book shall be so kept as to show clearly, in addition to particulars of importation, acquisition, or sale, the amount of any such drug held in stock.

(4) Every such order or prescription as is referred to in subsection (2) and every record made in such book as is referred to in subsection (3) shall be preserved and retained for a period of at least three years, and shall be open to the inspection of any member of the police force of or above the rank of sergeant or any other person authorized thereto in writing under the instructions of the Resident Commissioner, and any such chemist and druggist or medical practitioner or veterinary surgeon who personally or by any partner, manager, clerk, agent, apprentice or servant associated with or employed by him fails so to retain and

preserve or forthwith upon demand to produce such order, prescription or book for inspection shall be liable upon conviction to a fine not exceeding twenty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

6. No person shall use any pipe, receptacle, or material for smoking opium, Indian hemp or dagga, or, save and except in the circumstances contemplated in sections *four* and *five*, consume, be in possession of, or use any habit-forming drug or plant from which such drug can be derived, extracted, produced or manufactured and no person shall keep or assist in the keeping of or frequent any premises or place for the smoking of opium, Indian hemp or dagga, or for the surreptitious consumption, injection or administration in any manner whatsoever of any habit-forming drug.

7. Any person who contravenes any provision of sections *two*, *three*, *five* and *six* or any condition of any permit or licence issued under the provisions of section *three* or *four* shall be liable on conviction to a fine not exceeding one hundred pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and any such plant as is referred to in any of the said sections suspected of having been unlawfully imported or cultivated, and any habit-forming drug suspected of having been unlawfully imported, produced, extracted, derived, or manufactured may be seized, and if any person is convicted of contravening any provision of any of the said sections, or any condition of any such permit or licence, the plant or drug in respect of which such contravention has taken place shall be forfeited.

8. Any police constable having the written authority of an Assistant Commissioner, Magistrate, Justice of the Peace or commissioned officer of police may enter and search any premises, place or vehicle, if such constable has reasonable grounds for suspecting that any habit-forming drug, or any plant from which any such drug is derived, is kept, used or cultivated therein in contravention of this Proclamation and if any such substance or plant is found on such search it may be seized and removed, and on conviction of the owner of the premises, place or vehicle or of the person found in possession of the substance or plant of any contravention of this Proclamation it shall be forfeited: provided that if it appears that any delay involved in securing such written authority will defeat the objects of this section any European member of a police force may exercise the powers conferred hereby without any such written authority, but he shall, as soon as possible, report what he has done to the chief officer of police of the district or to the Assistant Commissioner or Magistrate.

9. (1) Any duly registered medical practitioner, dentist, or chemist and druggist or any duly qualified veterinary surgeon (as the case may be) shall be deemed to be guilty of and shall be liable to the penalties prescribed for any contravention of section *five* of this Proclamation where the act, or default constituting such contravention was that of a partner, manager, clerk, agent, apprentice, or servant associated with or employed by him unless he satisfies the court before which he is charged that such act or default was not due to his negligence in the supervision or direction of such partner, manager, clerk, agent, apprentice or servant.

(2) Every director and manager resident in the territory of a company shall be liable to the penalties prescribed for a contravention of this Proclamation by such company.

10. (1) The burden of proving any fact which would be a defence to a charge of contravening any provision of this Proclamation shall lie upon the person charged.

(2) Every person required by this Proclamation to be in possession of a permit to import, or acquire, or a licence to cultivate, or an order or prescription to sell or supply any plant or drug, as the case may be, shall be deemed to be without such permit, licence, order or prescription unless he produces or gives satisfactory proof of possessing the same.

(3) In any indictment, summons, or other form of charge under this Proclamation it shall be sufficient to set forth the offence charged in the words of this Proclamation or in similar words without negating any exception, exemption or qualification.

11. The High Commissioner may make regulations not inconsistent with the provisions of this Proclamation for the better carrying out of the objects and purposes of any provision or requirement thereof and may by such regulations prescribe penalties for the breach thereof not exceeding a fine of twenty-five pounds or imprisonment with or without hard labour for a period of one month or both such fine and such imprisonment.

12. Any drug forfeited under the provisions of this Proclamation shall, unless the Resident Commissioner otherwise directs, be burned or otherwise destroyed, in the presence of a commissioned officer of police, who shall transmit to the Resident Commissioner a certificate under his hand stating the circumstances under which the forfeiture took place, the amount forfeited and other particulars showing his compliance with the provisions of this Proclamation.

13. The Resident Commissioner may pay out of the public revenue of the territory to a person (other than an officer in the public service) on whose information a charge is laid resulting in a conviction under this Proclamation, a sum not exceeding twenty pounds.

14. In this Proclamation and in any regulation made thereunder, unless the context otherwise clearly requires, "habit-forming drug" or "drug" means and includes the following, as herein defined:

"Coca Leaves": The leaves of *Erythroxylon Coca*.

"Cocaine": The principal alkaloid of Coca Leaves, including all preparations, salts, derivatives or admixtures prepared therefrom or therewith and containing one-tenth or more per cent. of Cocaine.

"Dagga," "Wild Dagga," "Red Dagga," or "Klip Dagga": The whole or any portion of the plant *Leonotis leonurus* or *Leonotis ovata*.

"Diamorphine" (*Diacetyl morphine*) also known as "Heroin," including all preparations, salts, derivatives or admixtures prepared therefrom or therewith, and containing one-tenth or more per cent. of Heroin.

"Ecgonine": One of the alkaloids of Opium.

"Indian Hemp": including the whole or any portion of the plants *Cannabis indica* or *Cannabis sativa*.

"Morphine": The principal alkaloid of Opium, including all preparations, salts, derivatives or admixtures prepared therefrom or therewith, and containing one-fifth or more per cent. of Anhydrous Morphine.

"Opium": including:—

"Raw Opium": The untreated coagulated juice of the capsules of *Papaver somniferum*: the expression shall include Gum Opium and Powdered or Granulated Opium—also the leaves or wrappings in which Opium has been wrapped.

"Prepared Opium": Opium prepared for smoking: the expression shall include opium dross or refuse, or any residue remaining after Opium has been smoked or roasted.

"Medicinal Opium": Raw Opium which has been artificially dried, whether pure or mixed with other substances.

"Extract of Opium": including both solid and liquid extracts:

and any other substance which the Resident Commissioner with the approval of the High Commissioner may by notice in the *Gazette* declare to be a habit-forming drug within the meaning of this Proclamation.

15. (1) Section eleven of the Bechuanaland Protectorate Customs Management Proclamation 1914 shall be and is hereby repealed.

(2) The provisions of the Exportation and Importation Restriction (Bechuanaland Protectorate) Proclamation 1920 shall not apply to any habit-forming drug.

16. This Proclamation shall be in addition to and not in substitution for any law or regulation which may be in force in the territory regulating the sale or disposal of drugs or poisons.

17. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Opium and Habit-forming Drugs Regulation Proclamation 1922, 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 Capetown this Twelfth day of June One thousand Nine hundred and Twenty-two.

ARTHUR FREDERICK,  
High Commissioner.

By Command of His Royal Highness the  
High Commissioner.

H. J. STANLEY,  
Imperial Secretary.