

# BECHUANALAND PROTECTORATE.

No. 8 of 1926.

[Promulgated 28th May, 1926.]

## PROCLAMATION

By His Excellency The High Commissioner  
Entitled the Bechuanaland Protectorate Extradition and Fugitive  
Offenders (South-West Africa) Proclamation, 1926.

Whereas it is desirable to provide for the custody of fugitive criminals while in passage through the Bechuanaland Protectorate in course of extradition and further to provide for the return of fugitive offenders as between the mandated territory of South-West Africa and the Bechuanaland Protectorate.

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

1. Whenever any person—  
(a) is alleged to have committed a criminal offence in a country, colony, or territory other than the Bechuanaland Protectorate; and  
(b) has in respect of such alleged offence been apprehended in another country, colony, or territory, and has been removed therefrom under warrant or order for the purpose of being surrendered to the first-mentioned country, colony or territory to be dealt with under the laws thereof; and  
(c) in the course of such surrender enters and passes through the Bechuanaland Protectorate in custody  
he shall on such entry into and throughout the period of his passage through the Bechuanaland Protectorate in custody be deemed to be by reason of such warrant or order in lawful custody. If he escapes from such custody he may be apprehended without warrant by any member of the Police Force in the Bechuanaland Protectorate and shall be returned forthwith to the custody from which he escaped.

2. The warrant or order referred to in section one means a document which purports to have been issued by a competent authority of the country, colony or territory from which a person named in the document is to be removed and purports also to authorize his removal and surrender to a specified country, colony or territory, access to which is ordinarily or conveniently obtained by passage through the Bechuanaland Protectorate. In the event of any question arising as to whether the warrant or order was issued by competent authority or whether it authorizes the removal and surrender as aforesaid or is otherwise in order, the certificate of the High Commissioner shall be accepted in all courts and places as conclusive on such question.

3. (1) Where the country, colony or territory in which an offence is alleged to have been committed and that in which the person alleged to have committed the offence has been apprehended are both foreign countries or subject to the jurisdiction of a foreign Government, the provisions of section one of this Proclamation shall not apply save as is provided in sub-section (3) unless a request has been made in such manner as may be prescribed to the High Commissioner by the Government of the country, colony or territory in which the offence is alleged to have been committed, for authorization of the passage in custody of the person concerned through the Bechuanaland Protectorate.

(2) On the receipt of a request referred to in sub-section (1) the High Commissioner may instruct the Resident Commissioner to issue an order authorizing the passage in custody through the Bechuanaland Protectorate of the person named therein, and thereupon the provisions of section one of this Proclamation shall apply in respect of such passage in custody.

(3) Where authority has been granted for the passage in custody of a person to whom the provisions of this section apply by the Government of the Union of South Africa or of Southern or Northern Rhodesia or by the High Commissioner in respect of any territory other than the Bechuanaland Protectorate it shall not be necessary to make the request mentioned in sub-section (1) but the provisions of section one of this Proclamation shall apply as if the person in question had been apprehended in the said Union or in Southern or Northern Rhodesia or in such other territory as aforesaid.

4. (1) Whenever a warrant has been issued in the mandated territory of South-West Africa for the apprehension of any person who is alleged to have committed therein any criminal offence punishable by any court thereof and that warrant is submitted for endorsement to a Resident Magistrate of the Bechuanaland Protectorate, such Resident Magistrate shall if satisfied that the person named is or is reasonably suspected of being in or on his way to the Bechuanaland Protectorate and that the warrant has been issued by competent authority in the mandated territory endorse upon it an order authorizing any member of the Police Force in the Bechuanaland Protectorate to apprehend such person wherever he may be found therein and to bring him before the court of a Resident Magistrate.

(2) Such court if satisfied by such evidence as it may require that the warrant was issued by competent authority in the mandated territory of South-West Africa and duly endorsed as required by this Proclamation and that the person apprehended is the person named or otherwise described in the warrant, may issue an order that he be returned to the said mandated territory and for that purpose be delivered into the custody of the persons to whom the warrant is addressed or any one or more of them and pending such return he be detained with a view to his being returned to the said mandated territory to be dealt with therein according to the laws thereof. During detention under the order and until removal thereunder from the Bechuanaland Protectorate, he shall be deemed to be in lawful custody.

(3) The court shall have the same powers of remanding and admitting to bail such persons as it has in the case of a person apprehended and brought before it in respect of an offence alleged to have been committed in the Bechuanaland Protectorate. An order made under sub-section (2) or the refusal by a Resident Magistrate to make an order thereunder shall be subject to appeal to the court of Resident Commissioner, which may make such order in the matter as it may deem fit.

(4) Whenever any person is being returned under warrant or order as a fugitive offender from or to the mandated territory of South-West Africa to or from any part of His Majesty's Dominions in Africa south of the Equator or any territory under His Majesty's protection (other than the Bechuanaland Protectorate) in Africa south of the Equator, and in the course of such return enters and passes through the Bechuanaland Protectorate in custody, he shall on such entry into and throughout the period of his passage through the Bechuanaland Protectorate in custody, be deemed to be, by reason of such warrant or order, in lawful custody. If he escapes from such custody he may be apprehended without warrant by any member of the Police Force in the Bechuanaland Protectorate and shall be returned forthwith to the custody from which he escaped.

For the purpose of this sub-section the expression "territory under His Majesty's protection" includes the Tanganyika Territory.

5. All powers, authorities and jurisdiction conferred and all duties and functions imposed upon Assistant Commissioners and courts of Assistant Commissioner under the Fugitive Criminals Surrender Proclamation 1908 shall be and are hereby conferred and imposed upon Resident Magistrates and courts of Resident Magistrate respectively.

6. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Extradition and Fugitive Offenders (South-West Africa) Proclamation 1926 and shall have force and take effect from a date to be fixed by the High Commissioner by notice in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Eighteenth day of May One thousand Nine hundred and Twenty-six.

ATHLONE.

High Commissioner.

By Command of His Excellency the  
High Commissioner.

B. E. H. CLIFFORD

Imperial Secretary.