

## BECHUANALAND PROTECTORATE.

No. 1 of 1932.

(Promulgated 8th January, 1932.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Entitled the Bechuanaland Protectorate Native Tax Proclamation, 1932.

Whereas by Proclamation No. 9 of 1909, provision was made for the payment and collection of hut tax in the Bechuanaland Protectorate;

And whereas by Proclamation No. 47 of 1919 as subsequently amended by Proclamations No. 1 of 1923, No. 20 of 1923, and No. 13 of 1929 provision was made for the imposition of a tax in addition to the hut tax and for the creation of a special fund to be devoted to purposes for the benefit of the native inhabitants of the Bechuanaland Protectorate;

And whereas it is desirable to make further and better provision for the payment and collection of the aforesaid taxes and for that purpose to consolidate and amend the said Proclamations:

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

1. Proclamations No. 9 of 1909, No. 47 of 1919, No. 1 of 1923, No. 20 of 1923, and No. 13 of 1929 are hereby repealed provided that such repeal shall not affect any act done, liability incurred, penalty imposed or proceedings pending under the said Proclamations and that payment of the taxes due thereunder prior to the year ending on the thirty-first day of March, 1932, may be enforced and penalties for non-payment thereof imposed in the same manner as if the said proclamations had not been repealed.

2. In this Proclamation unless the context otherwise requires the following terms shall have the meanings therein respectively assigned to them, that is to say:—

“Native” shall mean any male aboriginal belonging to any tribe in Africa south of the Equator including any person of mixed race living as a member of any native community, tribe, kraal, or location who on the first day of July in any year is of the apparent age of eighteen or more years provided that the progeny of a legal marriage between a male European and a native female shall not be included in this definition.

“The Tax” shall mean the tax imposed by this Proclamation.

“Territory” shall mean the territory of the Bechuanaland Protectorate.

“Wife” shall include besides a wife married in accordance with the law of the territory, any wife married according to native custom.

“Year” shall mean the period from the first day of April in any one year to the thirty-first day of March in the following year.

3. (1) Every native shall pay to the magistrate or the Chief of the district in which such native resides, or other duly authorized person, for the purposes of the Bechuanaland Protectorate Government and of the Bechuanaland Protectorate Native Fund referred to in section twenty a tax at the rate of one pound five shillings per annum for the year ending on the thirty-first day of March 1932 and for each succeeding year.

(2) The tax payable under this Proclamation for each year shall become due on the first day of April of that year but shall not be payable until one month after that date or in the case of a native first becoming liable to the tax after the first day of April within one month of his so becoming liable.

(3) If a native has more than one wife he shall in addition to the sum payable under sub-section (1) of this section pay each year in respect of each additional wife the sum of ~~one pound five shillings~~ <sup>£1. 2/6</sup>, provided always that no native shall be liable to pay more than three pounds fifteen shillings in any one year in respect of himself and his wives. ~~£4. 15/6~~

4. Except in so far as he may be exempted under section *thirteen* any native who fails to make payment of the tax in accordance with the provisions of section *three* within three months of the date on which such tax becomes payable by him shall on conviction be liable to a penalty not exceeding five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

5. The imposition of any fine or order of imprisonment as mentioned in section *four* hereof shall not relieve any native from payment of the tax due and payable by him, but the tax for the non-payment of which any native has been convicted may be treated as a judgment debt and be recoverable as such under the provisions of section *seven* hereof.

6. Two or more contraventions of this Proclamation by the same native may be tried together or separately provided that no native shall be convicted more than once in respect of the tax due and payable for any one year, and provided that no native shall in any one year be sentenced to fines exceeding in all ten pounds or to imprisonment exceeding in all six months for contravention of section *three*.

7. (1) Upon the conviction of any native for a contravention of section *three* if it be shown to the satisfaction of the Court before which such native is convicted that he has sufficient property to pay the tax owing by him without being deprived of his means of subsistence, the Court may issue an order to attach sufficient moveable property of the accused and to sell the same and to apply the proceeds to the payment of the tax owing by the accused and it shall then become the duty of the Chief to assist in the execution of such order. Any money realized by the sale over and above the amount in this section mentioned and the expenses of the sale shall be returned to the accused.

(2) The magistrate may in such circumstances issue a warrant requiring the Messenger of the Court or any member of the police to attach sufficient moveable property to satisfy the exigencies of the said warrant.

(3) (a) In the case of the conviction of any native as aforesaid, if it is shown to the satisfaction of the Court that he has not sufficient property to pay the tax owing by him but is in receipt of salary or wages through employment the Court may order the attachment of any salary or wages actually due to such native by any person residing, carrying on business or employed within the district to the amount necessary to cover the tax due by such native, and may order such other person to pay to the Messenger of the Court so much of the salary or wages appearing at the time of making the order to be due and payable in respect of the tax due by the aforesaid native, and may enforce the order as if it were a judgment of that Court.

(b) No such order in respect of salary or wages shall be granted unless the Court is satisfied upon sworn information that sufficient means will, after satisfaction of the order, be left to the native in default to maintain himself and those dependent on him.

(c) If, after any such order in respect of salary or wages has been granted, it is shown to the satisfaction of the Court that sufficient means to maintain himself and those dependent upon him will not, after satisfaction of such order, be left to

the said native, the Court shall vary or set aside such order in such manner that the order will only affect the balance if any of such salary or wages over and above such sufficient means.

8. Any native reasonably suspected of having contravened the provisions of section *three* may be arrested without warrant by any magistrate or police officer or any person whom a magistrate or police officer may authorize for such purpose.

9. Any person who shall assist any native in contravening or in an attempt to contravene the provisions of section *three* shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

10. A receipt in such form as the Resident Commissioner may from time to time approve for the amount of the tax paid by any native shall be given to such native in acknowledgment of the payment made by him, and any receipt so given shall be kept by such native and produced for inspection on demand made by any person appointed to collect the said tax or by any police officer.

*Proclamation  
Tax receipt*

11. (1) Any person forging or defacing any receipt as mentioned in the last preceding section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

(2) Any native in possession of such a receipt belonging to another native who represents it to be his own shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(3) Any native who disposes in any way to another native of a receipt given to him in acknowledgment of the payment of his tax with intent that such other native may thereby evade payment of the tax due and payable by him shall be guilty of an offence and on conviction shall be liable to the penalties provided in sub-section (2) of this section.

(4) Any Chief, headman or collector of tax or other person who in the course of collecting or under colour of collecting the tax—

- (a) without the permission of the Resident Commissioner demands from any person an amount in excess of the tax to which such person is liable under this Proclamation;
- (b) withholds for his own use or otherwise any portion of the tax collected;
- (c) renders false returns, whether verbal or in writing of the amounts collected or received by him.
- (d) wilfully misrepresents the taxable capacity of any community or person from which or from whom he is authorized to collect taxes;
- (e) embezzles or otherwise misappropriates any tax received by him.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a period not exceeding three years, and any amount in respect of which any person has been convicted under paragraphs (b) or (e) of this sub-section may be recovered by execution against such person's property.

(5) The provisions of sub-section (4) (a) of this section shall not apply in any case where the Resident Commissioner at the request of a Tribe, and with the approval of the High Commissioner has allowed the Chief to collect a levy for some approved purpose for the benefit of such Tribe under such conditions as the Resident Commissioner with the approval of the High Commissioner may impose.

12. Notwithstanding anything in this Proclamation contained any native who is domiciled in some country other than the Territory and who can produce proof to the satisfaction of the magistrate that he has paid tax for the current year in that country shall not be liable to pay the tax for that year.

13. (1) Any native who shall prove to the satisfaction of the magistrate in whose district he resides that he is unable on account of poverty to pay the tax without being deprived of his means of subsistence, may be exempted in whole or in part by such magistrate after consultation with the Chief from payment of the tax.

(2) Any native under the age of twenty-one years who produces to the magistrate a certificate from the principal of any recognized school certifying that he has regularly attended such school during any year for which the tax is payable shall be exempted by the magistrate from payment of the tax.

(3) Where any person is exempted from payment of the tax under this section the magistrate shall deliver to him a certificate of such exemption. Every such certificate of exemption shall be valid only in respect of the tax for the year for which it is granted.

14. The tax shall be paid in money except in cases where the collector is satisfied that the person liable is unable to pay in such manner in which case the said collector may accept grain, produce or stock in lieu thereof; the value of such grain, produce, or stock shall be deemed to be the price current in the nearest market in which such grain, produce or stock can be disposed of after deduction of the costs of conveying it to and selling it at such market.

15. The Resident Commissioner may appoint any native Chief as collector of tax within any area. The person so appointed shall receive from the magistrate or other official books containing the form of receipt approved by the Resident Commissioner and it shall be his duty to pay and deliver to the magistrate or other official the amount of tax represented by the receipts issued by him under section *ten* and to account for the remainder of the said receipt forms.

16. An amount equal to ten per centum of the value of tax collected in respect of the current year and five per centum in respect of arrear tax paid to the magistrate on or before the thirty-first day of October and five per centum on all tax paid thereafter whether in respect of current or arrear tax may be paid to the said Chiefs in consideration for the services rendered in the collection thereof subject to the provisions of section *eighteen* of this Proclamation. Provided that out of such remuneration the Resident Commissioner may direct that payment shall be made to collectors employed by any such Chief in respect of their services at such rates as the Resident Commissioner may, after consultation with the Chief, decide, and in the event of his so directing, may withhold the amount of such payment from the remuneration to be paid to the said Chief in order that such amount may be paid to the collectors.

17. At the commencement of each year or as soon as possible afterwards any Chief appointed to collect the tax as aforesaid shall furnish to the magistrate or an official appointed by him a complete list of (a) the names of the persons who will become liable for the first time to the payment of the tax; (b) the names of all payers of the tax who have died or removed from the area in which he is appointed collector in the previous year.

18. Any Chief so appointed shall be responsible for the due and proper collection of the tax within the area for which he is appointed, and in the event of the collection thereof being made in a careless or improper manner the Resident Commissioner may reduce or withhold the remuneration allowed to such Chief and in addition may with the

Repealed by  
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approval of the High Commissioner remove such Chief from his position as collector of the tax, and appoint some other person or persons in his place and stead to whom shall be paid such remuneration as the Resident Commissioner may allow.

19. The High Commissioner may by notice in the *Gazette* for any period in any portion of the Territory suspend the payment of the tax or reduce the amount thereof either generally or in respect of any class of persons should it appear expedient to him so to do.

20. (1) Of the tax payable under this Proclamation ~~one fifth~~ shall be paid over to the fund known as the Bechuanaland Protectorate Native Fund established under section ~~two~~ of Proclamation No. 47 of 1919.

(2) All moneys standing to the credit of the Bechuanaland Protectorate Native Fund may at the discretion of the High Commissioner be used for any one or more of the following purposes that is to say the education of natives residing in the Bechuanaland Protectorate; the abatement of contagious diseases; the eradication of cattle diseases (including the payment of compensation for animals destroyed by order of the Government); the improvement of stock belonging to natives and the fencing of native areas and for such other purposes as are in the opinion of the High Commissioner for the benefit of the native inhabitants of the Bechuanaland Protectorate.

(3) Subject to the provisions of this section the Fund shall be under the absolute control of the High Commissioner who may from time to time make regulations dealing with the keeping and auditing of accounts, the authorization of issues from the Fund, the investment of balances and any other matters connected therewith.

21. There shall be kept by each magistrate or by some person deputed by him a register in such form as the Resident Commissioner may direct in which shall be entered the name of each payer of the tax and the years in respect of which he has paid and such register shall on its production in Court from the proper custody be taken as *prima facie* evidence of the facts therein stated.

22. Any person who not being authorized under this Proclamation so to do, shall collect or attempt to collect any tax shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding nine months.

23. The High Commissioner may from time to time make regulations with penalties for the breaches thereof providing for the collection of the tax and the exemption of persons therefrom and defining the duties and responsibilities of Chiefs and other persons in respect of the payment of such tax and generally for the carrying out of this Proclamation.

24. This Proclamation may be cited as the Bechuanaland Protectorate Native Tax Proclamation, 1932, and shall have force and take effect from the date of publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this First day of January One thousand Nine hundred and Thirty-two.

H. J. STANLEY,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

SHIRLEY FALES,  
Acting Imperial Secretary.

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Proc. 10/1/32  
Repealed  
by Proc.  
34/38