

*Amended by  
Proc: 25/1956.*

## BECHUANALAND PROTECTORATE

No. 34 of 1932.

(Promulgated 19th August, 1932.)

### PROCLAMATION

By His Excellency the High Commissioner

Regulating the entry of immigrants other than native immigrants, and prohibiting the entry of undesirable persons into the Bechuanaland Protectorate.

Whereas it is expedient to regulate the entry of immigrants other than native immigrants, and to prohibit the entry of undesirable persons into the Bechuanaland Protectorate (hereinafter called the territory);

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

1. In this Proclamation, and in the regulations thereunder, unless inconsistent with the context:—

“domicile” shall mean the place in which a person has his present home, or in which he resides, or to which he returns as his place of present permanent abode, and not for a mere special or temporary purpose; and a person shall not be deemed to have a domicile within the territory for the purposes of this Proclamation unless he has resided therein for at least two years, otherwise than under terms of conditional or temporary residence permitted by this Proclamation or any other law, or as a person under detention in a prison, gaol, reformatory or lunatic asylum; and a person shall be deemed for the purposes of this Proclamation to have lost his domicile within the territory if he voluntarily go and reside outside the territory (except for a special or temporary purpose) with the intention of making his home outside the territory;

“magistrate” shall mean resident magistrate or assistant resident magistrate or acting resident magistrate duly appointed as such;

“police officer” shall mean any European member of the Bechuanaland Protectorate Police;

“person” shall include every person except a native domiciled in any part of Africa south of the Equator, and shall include persons of mixed races;

“immigration officer” means any person on whom powers have been conferred or to whom duties have been assigned by the High Commissioner as to the carrying out of this Proclamation.

2. Any such person as is described in any sub-section of this section who enters or, having entered after the promulgation of this Proclamation, is found within the territory shall be a prohibited immigrant, that is to say:—

(1) Any person who is likely, if he entered the territory, to become a public charge, by reason of infirmity of mind or body, or because he is not in possession, for his own use, of sufficient means to support himself and such of his dependants as he shall bring with him into the territory;

*See  
See: 1.  
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- (2) any person or class of persons deemed by the Resident Commissioner with the sanction of the High Commissioner on economic grounds or on account of standard or habits of life to be an undesirable inhabitant or class of undesirable inhabitants;
- (3) any person who, from information received from any Government, whether British or foreign, through official or diplomatic channels is deemed by the Resident Commissioner to be an undesirable inhabitant or visitor to the territory;
- (4) any prostitute, or any person, male or female, who lives or has lived on or knowingly receives or has received any part of the earnings of prostitution, or who procures or has procured women for immoral purposes;
- (5) any person who has been convicted in any country of any of the following offences (unless he has received a free pardon therefor), namely, murder, rape, incest, sodomy, bestiality, arson, theft, receiving stolen goods knowing the same to have been stolen, fraud, forgery or uttering forged documents knowing the same to have been forged, counterfeiting coin or uttering coin knowing the same to be counterfeit, housebreaking with intent to commit an offence, robbery with violence, threats by letter or otherwise with intent to extort, fraudulent insolvency, selling, bartering, giving or otherwise supplying intoxicating liquor or firearms to any coloured person or native, dealing in or being in possession of unwrought precious metal or precious stones, in contravention of any law, or of any attempt to commit any such offence, and by reason of the circumstances connected with the offence is deemed by the Resident Commissioner to be an undesirable inhabitant of or visitor to the territory;
- (6) any idiot or epileptic, or any person who is insane or mentally deficient, or any person who is deaf and dumb, or deaf and blind, or dumb and blind, or otherwise physically afflicted, unless in any such case he or a person accompanying him or some other person give security to the satisfaction of the Resident Commissioner for his permanent support in the territory, or for his removal therefrom whenever required by the Resident Commissioner;
- (7) any person who is afflicted with leprosy or with any such infectious, contagious, or loathsome or other disease (other than tuberculosis), as is defined by regulation; and any person who is afflicted with tuberculosis, unless he is in possession of a permit to enter the territory, issued upon conditions prescribed by regulation;
- (8) any person who when asked to do so by any duly authorized official shall be unable to write out and sign in any European language an application to the satisfaction of an immigration officer, magistrate or police officer. For the purposes of this section, Yiddish is declared to be a European language.

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 Proc. 43 of  
 1933

See Proc 19/48.

Whenever the Resident Commissioner exercises any power conferred ~~on him by~~ this section, he shall transmit written notice of that fact to the magistrate of the district and the police officer concerned.

3. No prohibited immigrant shall enter the territory, and an immigration officer shall order a prohibited immigrant entering or found within the territory, having entered after the promulgation of this Proclamation to be removed therefrom.

4. (1) Whenever under this Proclamation any person is deemed to be a prohibited immigrant or is detained, restricted or arrested as a prohibited immigrant, notice of that fact and of the grounds therefor shall be given by a police officer in writing to the said person.

sub Sect 6. If such applicant be a B. subject  
or shall have resided in the Territory for  
at least 7 years, he shall be  
entitled notwithstanding anything  
to the contrary contained in the preceding  
sub-sections, to appeal to a special  
court from a decision of A.D.C.  
amended by Sect 2 Proc 25/36.

(6) See Sec. 2 Proc. 25/1936

for 6.(5) See Sec. 3 (2) Proc. 25/1936.

(2) Any person to whom such notice has been given may, within three days give notice of his intention to appeal to the magistrate.

*Proc. 2/9/50*

(3) Pending the hearing and determination of any such appeal, no warrant shall be issued for the removal of any person as a prohibited immigrant, but should the appeal be dismissed, the magistrate shall issue a warrant for the removal of the prohibited immigrant.

(4) A person shall not be debarred from exercising any right of appeal conferred by this section on the ground that he is an alien.

(5) A magistrate's court may, of its own motion, and shall, at the request of the appellant or of an immigration officer, reserve for the decision of the special court any question of law which arises upon an appeal heard before such magistrate's court, and shall state such question in the form of a special case for the opinion of such court and shall transmit such special case to the registrar thereof. The question so stated may be heard by the president of the special court at any convenient time in chambers or in open court, notwithstanding that the special court be not then sitting, and such court or the president thereof may hear further evidence or call for further information to be supplied by the magistrate, if it or he shall deem such information necessary, and may give such answer on the case, and may make such order as to the cost of the proceedings, as it or he may think right. For the purposes of this sub-section a question of law shall include a question of domicile.

*(6) If such appellant be a British subject etc.*

5. If any prohibited immigrant who has not given notice of appeal under section four shall refuse to obey the directions of a police officer and leave the territory, the nearest magistrate, on being satisfied as to the facts, may grant a warrant for the removal of the prohibited immigrant, and such warrant shall be sufficient authority for removing the prohibited immigrant beyond the borders of the territory.

6. The following persons or classes of persons shall not be prohibited immigrants for the purposes of this Proclamation, namely:—

- (1) Any member of His Majesty's regular naval ~~or~~ military forces; or any member of the Defence or Police Forces of Northern or Southern Rhodesia or the Union of South Africa or South West Africa;
- (2) any person who is duly accredited to the territory by or under the authority of His Majesty or the Government of any foreign state, or the wife, family, staff or servants of any such person;
- (3) any person who enters the territory under such conditions as may be prescribed from time to time in accordance with any law or under any convention with the Government of a territory, state or dominion adjacent to the territory; provided he is not such a person as is described in sub-sections (1), (2), (3), (4), (5) or (6) of section two of this Proclamation;
- (4) any person domiciled in the territory and the wife and children of such person, provided that the term "wife" shall include any one woman between whom and the domiciled person there exists a union recognised as a marriage under the tenets of the religion professed by such domiciled person which sanctions polygamous marriages; but no such woman shall be deemed to be the wife of such domiciled person—  
(a) if such a union exists between him and any other woman who resides in the territory; or  
(b) if such domiciled person has in the territory offspring by any other woman who is still living;

*Draw (3)(i)  
Proc. 25/50*

*5 Any person born in the Territory etc.*

and "children" shall mean and include any child under the age of 16 who is the offspring of the domiciled person and the wife as herein defined, or the child of the person and a deceased woman, who, if she had been alive, could have been recognised as the wife as herein defined.

7. (1) Any person who is or is deemed to be a prohibited immigrant under this Proclamation may be detained for such reasonable period, not exceeding fourteen days, as shall be required for the purpose of making inquiries as to such person's identity and antecedents, and during such period he may, unless he can provide reasonable security or bail for his appearance within the said period of fourteen days or unless he shall undertake to report himself to a police officer twice in every day at such reasonable hours as may be appointed, be detained in the nearest convenient gaol.

(2) Should such person fail without reasonable cause to report himself in accordance with his undertaking, he may be arrested and detained in the nearest convenient gaol.

8. (1) If any person, after having been restricted from entering, removed from, or ordered to leave the territory, is found within the territory, he shall be guilty of an offence, and liable upon conviction—

(a) to imprisonment, with or without hard labour, for a period not exceeding three months; and

(b) to be removed at any time from the territory by warrant issued under this Proclamation.

(2) Every such sentence of imprisonment shall terminate as soon as the prohibited immigrant is removed from the territory.

(3) Every officer in charge of a prison or gaol shall, if the warrant of removal be produced to him, deliver the person named therein to any police officer, and the person shall be deemed to be in lawful custody as long as he is in the custody of such officer, or any like officer, who is in possession of the warrant.

(4) The serving of any sentence imposed, or the removal from the territory, shall not relieve a prohibited immigrant from the operation of this Proclamation, and should he return to the territory after removal therefrom, he shall continue to be liable to the penalties provided under this Proclamation.

9. (1) Every person who is suspected on reasonable grounds of being a prohibited immigrant may, if there is reason to believe that the delay occasioned by obtaining a warrant would enable such person to evade the provisions of this Proclamation, be arrested without warrant by a police officer, and shall be dealt with in accordance with this Proclamation.

(2) Any magistrate may, if information on oath be laid before him that there is upon any premises a named or described person reasonably suspected of being a prohibited immigrant, issue a warrant empowering a police officer of or above the rank of sergeant to enter those premises and search for the person named or described in that warrant and arrest him.

10. No prohibited immigrant shall be exempt from the provisions of this Proclamation or be allowed to remain in the territory, or be deemed to have acquired a domicile therein, by reason only that he had not been informed that he could not enter or remain in the territory, or that he had been allowed to enter or remain through oversight, misrepresentation, or owing to the fact having been undiscovered that he was such a prohibited immigrant.

*Proc. 29/1936.*  
*Sec. 14.*

effects: any person in the territory other than a  
person whose parents at the time of his  
birth in the territory were holders  
of Temp. permits under Sub Sect 1 of Sec 16  
of this proc.

amend by Sec 3 Rec 25/36.

any person who after having been restricted  
from entering, and removed from or ordered to leave  
the territory, is found within the territory  
shall unless he shall have ceased to be a  
prohibited immigrant, be guilty of an offence  
and shall upon conviction be liable  
amend by sec 4 of P 25/36.

^ an Immigration officer - Dec. 43/1932

11. (1) Every person arriving in the territory, or whenever otherwise found within the territory having arrived after the taking effect of this Proclamation shall, if required, appear before a police officer and satisfy such officer that he is not a prohibited immigrant. The police officer may require every such person—

- (a) to make and sign a declaration in the prescribed form; and
- (b) to produce documentary or other evidence relative to his claim to enter or be in the territory; and
- (c) to submit to any examination or test to which he may be lawfully subjected under this Proclamation; and
- (d) if he is suspected of being afflicted with any disease or physical infirmity which under this Proclamation would render him a prohibited immigrant, to submit to examination by a medical officer designated by the Resident Commissioner.

Every declaration made by a person under this sub-section shall be exempt from the stamp duty ordinarily imposed by law on affidavits and solemn or attested declarations, anything to the contrary notwithstanding in any law in force in the territory relating to stamp duty.

(2) Any person who shall fail to comply with the requirements of sub-section (1) or having complied with such requirements, shall fail to satisfy the police officer that he is not a prohibited immigrant, shall be informed in writing by the said officer that he is declared to be a prohibited immigrant, and of the grounds on which he is so declared and that he may within three days after the date of such notification appeal to the magistrate under sub-section (2) of section four.

12. Any person who—

- (1) aids or abets any person in entering or remaining within the territory in contravention of this Proclamation, knowing that person to be prohibited from so entering or remaining; or
- (2) aids or abets a person ordered to be removed from the territory in evading the order, or harbours any such person, knowing him to be the subject of any such order; or
- (3) for the purpose of entering the territory, or of facilitating or assisting the entrance of himself or any other person in contravention of this Proclamation, commits any fraudulent act or makes any false representation by conduct, statement, or otherwise;

shall be guilty of an offence, and 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 six months, or to such imprisonment without the option of a fine.

13. Any person not being a person domiciled in the territory, who—

- (1) having been removed from the territory as a prohibited immigrant, returns thereto without lawful authority, or, being the subject of an order issued under any law to leave the territory, has failed to comply with the terms of such order; or
- (2) having been refused permission to enter the territory, has entered the territory,

may, if not actually under detention, be arrested without warrant, and removed by warrant from the territory, and pending such removal, may be detained in the nearest convenient gaol.

*Handwritten notes:*  
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28/11  
Sec. 5

ORDER

14. (1) Any other warrant, permit, certificate or ~~other~~ document, which under this Proclamation may be issued, shall be good and effectual if signed by any officer in the public service, authorized by the Resident Commissioner by notice in the *Gazette* to sign such an order, warrant, permit, certificate or other document, and when so signed, shall be evidence in all courts of law and for other purposes that it was issued in accordance with the provisions of this Proclamation.

(2) A certificate under the hand of an immigration officer shall in any proceedings under this Proclamation be *prima facie* evidence of the facts stated therein, and it shall not be necessary to tender oral evidence of such facts, unless the court before which such proceedings are had specially direct, in which case a postponement shall be allowed to enable the officer whose presence is required to attend.

15. A magistrate's court shall have special jurisdiction to impose the maximum penalties provided for a contravention of this Proclamation, anything to the contrary notwithstanding in any law relating to magistrates' courts.

16. (1) Anything to the contrary notwithstanding in this Proclamation contained, the Resident Commissioner may, in his discretion, exempt any person from the provisions of ~~sub-sections (1), (2) or (7) of section two~~, or may authorize the issue of a temporary permit to any prohibited immigrant to enter and reside in the territory upon such conditions as he may think fit.

(2) The Resident Commissioner may also in his discretion authorize the issued of a certificate of identity to any person who is lawfully resident in the territory, and who, desiring to proceed thereout with the intention of returning thereto, is for any reason apprehensive that he will be unable to prove on his return that he is not a prohibited immigrant.

(3) The Resident Commissioner may authorize persons outside the territory to issue to any intending immigrant a certificate that he is exempt from the provisions of sub-sections (1) and (2) of section two, but no such certificate shall be recognized in the territory unless the holder thereof furnish to the immigration officer such proof as is prescribed by regulation of his identity with the immigrant to whom the certificate was originally issued.

17. (1) The High Commissioner may make regulations, not inconsistent with this Proclamation, prescribing—

- (a) the powers and duties of immigration officers, magistrates, and police officers;
- (b) the steps to be taken to prevent the entrance of prohibited immigrants into the territory;
- (c) the times, places, and conduct of the inquiry or examination, medical or otherwise, of persons entering or desiring to enter the territory or who, being found in the territory, are suspected of being prohibited immigrants or unlawfully resident therein;
- (d) the procedure for, and the manner of, the detention of prohibited immigrants and unlawful residents, pending their removal from the territory, and the procedure necessary for and the manner of such removal;
- (e) the means to be taken for the identification of any person believed to be a prohibited immigrant, including the taking of photographs and finger-print impressions;
- (f) lists of infectious, contagious, loathsome or other diseases (other than tuberculosis), the affliction with which will render a person a prohibited immigrant; and the conditions governing the issue to any person infected with tuberculosis of a permit to enter the territory;
- (g) the other permits and the certificates which may be issued under this Proclamation, the conditions upon which any such permit or certificate may be issued, the circumstances under which they may be cancelled or

S/S (1)(2)(3)(4) of  
of sec. two.  
Proc. 25/1936.

Amended by HCS  
Article 32/1936.

withdrawn, and the fees which may be charged for any such permit or certificate, and the amount and nature of the security to be found for the due carrying out of any conditions upon which a permit to enter and reside for a specified period may be issued to a prohibited immigrant;

- (h) the conditions under which prohibited immigrants may be allowed to pass through the territory while journeying or being conveyed to a place outside the territory;
- (i) the forms of warrants, permits, certificates or other documents to be issued or used, or of the declarations to be made, or of the books to be kept, for the purposes of this Proclamation, and the particulars to be inserted in any such document, declaration or book,

and generally for the better carrying out of the objects and purposes of this Proclamation.

(2) The regulations may prescribe penalties for the contravention thereof or failure to comply therewith, not exceeding the penalties mentioned in the next succeeding section.

18. Any person who—

- (1) for the purpose of entering the territory or of remaining therein in contravention of this Proclamation or any other law, or of assisting any other person so to enter or so to remain, fabricates or falsifies any permit, certificate or other document, or utters, uses or attempts to use any permit, certificate or other document which has not been issued by lawful authority, or which, though issued by lawful authority, he is not entitled to use, or any fabricated or falsified permit, certificate or other document, knowing it to have been fabricated or falsified; or
- (2) fails to comply with or contravenes the conditions under which any permit, certificate or other document has been issued to him under this Proclamation; or
- (3) obstructs, hinders or opposes any magistrate or police officer in the execution of his duty under this Proclamation; or
- (4) contravenes or fails to comply with any provision of this Proclamation for the contravention whereof or failure to comply wherewith no penalty is specially provided,

shall be liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, and, in the case of the contravention of paragraph (1) of this section, to such imprisonment without the option of a fine.

19.—This Proclamation may be cited for all purposes as the “Immigration Regulation (Bechuanaland Protectorate) Proclamation, 1932”, 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 Pretoria this Twelfth day of August 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.

*Proc. 25/1936 - See INDEX.*