

BECHUANALAND PROTECTORATE

No. 52 of 1934.

(Promulgated 26th October, 1934.)

PROCLAMATION

By His Excellency The High Commissioner

Making provision with regard to dealing in unwrought precious metals in the Bechuanaland Protectorate.

Whereas it is expedient to make provision with regard to dealing in unwrought precious metals in 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. In this Proclamation:

“Banker” shall include any manager, cashier, or other officer of a joint stock bank acting in such capacity.

“Imprisonment” shall mean imprisonment either with or without hard labour.

“Licence” shall mean a licence described in sections *three* and *four*.

“Licensed dealer” shall mean the holder of a licence as in this section defined.

“mining right” shall mean any right to work precious metals granted or acquired either directly or indirectly.

“Precious metals” shall mean (a) gold and silver and their ores, (b) any other metal declared by Proclamation to be a precious metal for the purposes of this Proclamation.

“Unwrought precious metal” shall include precious metal in any unmanufactured form whatever and shall include amalgam, slimes, slags, blacksands, pots, battery chips, sweepings of reduction works and scrapings and by-products of unrefined precious metal; and shall further include any bangles, chains, or any other articles whatever containing precious metal, made up, smelted or manufactured in the Bechuanaland Protectorate, except under such licence as is herein after provided.

2. (1) No person shall buy, sell, deal in, receive, or dispose of by way of barter, pledge, or otherwise either as principal or agent, any unwrought precious metal unless

- (a) he is a holder of a licence, or
- (b) he is a banker in the Bechuanaland Protectorate, or
- (c) such unwrought precious metal has been won by him or his servants or agents acting on his behalf from ground held by him under any mining right, or on which he is lawfully entitled to prospect, or
- (d) such unwrought precious metal does not exceed twenty pennyweights in quantity and, not being a person described in paragraph (a), (b), or (c), he has obtained a certificate from the Resident Commissioner authorizing him to be in possession or dispose of such quantity of unwrought precious metal.

(2) Any person acting in contravention of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or to imprisonment without the option of a fine for a period not exceeding two years, or to both such fine and imprisonment and, in the case of a second or subsequent conviction, to a fine not exceeding one thousand pounds or to imprisonment without the option of a fine for a period not exceeding five years or to both such fine and imprisonment.

(3) Any person who shall buy unwrought precious metal without having satisfied himself that the vendor thereof is lawfully entitled to sell the same shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (2) of this section.

3. (1) Any person who has in his possession any unwrought precious metal shall be guilty of an offence and liable on conviction to the penalties mentioned in the last preceding section, unless—

- (a) he is a person excepted under sub-section (1) of the last preceding section, or
- (b) he is in possession of such metal in fulfilment of a contract of service with any such excepted person, or
- (c) he comes into possession of such metal in a lawful manner,

and in any proceedings against a person for an offence under this section the burden shall lie upon him of proving that he falls within one of the above-mentioned exceptions.

(2) The High Commissioner may make regulations as to all or any of the following matters:—

- (a) The licensing of persons authorized to buy, sell, make up, smelt or otherwise to deal in or dispose of unwrought precious metal, including the licensing of persons to carry on the business of jewellers or pawn-broking.
- (b) The control of the business so licensed to be carried on.
- (c) The hall-marking of articles made up or manufactured in the Bechuanaland Protectorate from precious metals.
- (d) The better prevention of theft, unlawful dealing in or unlawful possession of unwrought precious metal.

The regulations may prescribe different classes of licences for the various methods of smelting, manufacturing, making up, or in any way dealing in unwrought precious metal.

The regulations may further provide penalties for contravention thereof or failure to comply therewith not exceeding the penalties mentioned in the last preceding section.

4. (1) The resident magistrate of any district may issue to any European a licence for such district. Such resident magistrate shall not issue such licence except after being satisfied upon inquiry from the Resident Commissioner and the officer in charge of the police that such European is a fit and proper person to receive such licence.

(2) Every licence shall be in the form prescribed by regulation and shall be issued for one year or a quarter of a year.

(3) There shall be paid to the resident magistrate in respect of every licence the sum of twenty-five pounds if it be issued for a year, or eight pounds if it be issued for a quarter of a year.

(4) Every licence, if yearly, shall, whenever issued, expire on the thirty-first day of December of the year in which it was issued; and quarterly licences shall expire on the last day of each quarter ending the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December.

5. Any licensed dealer who shall deal in unwrought precious metal in a manner which is not specially authorized by the terms of his licence shall be guilty of an offence and liable on conviction to the penalties mentioned in section two, and, in addition, to forfeit his licence and any right of renewal thereof for such time as the court which passes sentence may direct.

6. Any person who shall buy, sell, deal in, or receive by way of barter, pledge or otherwise, either as principal or agent, any unwrought precious metal between sunset and sunrise or on a Sunday or on a day declared by law a public holiday, or at any other place than his usual place of business, shall be guilty of an offence and liable on conviction to the penalties mentioned in section two, and, in addition, in the case of a licensed dealer, to forfeit his licence and any right of renewal of the same for such time as the court which passes sentence may direct.

7. Whenever in any proceedings against any person under this Proclamation, it is necessary to ascertain whether he is a licensed dealer or is otherwise authorized to buy, sell, deal in, receive, or dispose of unwrought precious metal, the burden of proving that he was such a licensed dealer or was otherwise authorized as aforesaid, shall lie upon such person.

8. (1) Every licensed dealer, and every banker and every person who receives or deposits for safe-keeping or dispatch unwrought precious metal, shall keep a true and correct register in the form prescribed by regulation of all unwrought precious metal deposited with, or received, or dispatched, or otherwise disposed of by him, and shall enter or cause to be entered in such register within twenty-four hours after every such transaction:—

- (a) The date of the transaction;
- (b) the names of the parties to the transaction;
- (c) the nature and weight of the material and the weight of the precious metal, the subject of the transaction;
- (d) the price (if any) received or paid.

(2) The High Commissioner may from time to time by notice in the *Gazette* make, alter, and rescind regulations prescribing the form of the registers required to be kept under this section.

(3) Any person required by this section to keep a register who shall fail to keep the same in manner prescribed shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or to imprisonment, without the option of a fine, for a period not exceeding three months.

(4) Every person required by this section to keep a register shall, on or before the fifteenth day of each month, transmit, or deliver to the Resident Commissioner a true copy of such register in duplicate for the last preceding month, together with a solemn declaration of the correctness thereof, and shall also produce and exhibit such register to the senior officer of police having authority in the district whenever required in writing so to do by such officer, and in default of compliance with any requirement of this sub-section he shall be guilty of an offence and liable on conviction to the penalties mentioned in sub-section (3) of this section.

9. Any person who shall deliver or cause to be delivered unwrought precious metal in payment of any debt due from him or another person, or in consideration of any service rendered or to be rendered to him or to another person, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment, without the option of a fine, for a period not exceeding three months or to both such fine and imprisonment.

10. On the conviction of any person for an offence mentioned in this Proclamation it shall be in the discretion of the court which passes sentence to order any unwrought precious metal in respect of which such conviction has been obtained to be delivered up to the owner thereof if the court shall be satisfied of the ownership or if not so satisfied to order the said metal to be forfeited to the Crown.

11. Any person who shall maliciously place any unwrought precious metal in the possession of or on the premises of any other person, with intent that such other person shall be convicted under any provision of this Proclamation, shall be guilty of an offence and shall be liable on conviction to the penalties mentioned in section two.

12. Any person who shall be an accessory either before or after the fact to an offence described in this Proclamation shall be liable to be charged and dealt with in all respects as if he were a principal offender, and any person who shall attempt to commit any such offence shall be deemed to have actually committed the same, and shall be liable to the penalties herein provided for the particular offence which he has attempted to commit.

13. No person who has been convicted of an offence described in this Proclamation shall be entitled to obtain from a resident magistrate a licence to trade or carry on any business in the Bechuanaland Protectorate; and any such licence shall *ipso facto* lapse on conviction of the holder for any such offence.

14. This Proclamation may be cited for all purposes as "The Dealing in Unwrought Precious Metals (Bechuanaland Protectorate) Proclamation, 1934, 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 Twenty-third day of October One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.