

## BECHUANALAND PROTECTORATE.

No. 30 of 1937.

(Promulgated 4th June, 1937.)

### PROCLAMATION

By His EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Railway Amendment Proclamation, 1937.

Whereas it is expedient to amend in certain respects the "Railway Proclamation 1935" (No. 37 of 1935) of the Bechuanaland Protectorate, hereinafter referred to as the principal law;

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

1. This Proclamation may be cited for all purposes as the "Railway Amendment Proclamation, 1937", and shall not come into operation unless and until the High Commissioner has declared by Notice in the *Gazette* that it is His Majesty's pleasure not to disallow the same, and shall come into operation on such date as may be fixed by the High Commissioner by the same or any subsequent notice in the *Gazette*.

2. Section *two* of the principal law which relates to definitions, is hereby amended by the addition of the following definition:—

" 'territory' means Southern Rhodesia, Northern Rhodesia or the Bechuanaland Protectorate."

3. Section *thirteen* of the principal law, which relates to the maintenance of the schedule of railway charges, is hereby amended by the insertion of the following words after the word "income", "unless the Companies shall have agreed to and the Commission shall have approved of such reduction".

4. Section *thirty-one* of the principal law, which relates to undue preference, is hereby repealed and the following section is substituted in lieu thereof:—

" 31. The Companies shall not nor shall either of them make or give any undue or unreasonable preference or advantage to or in favour of any particular territory, district, person or company, or any particular description of traffic in any respect whatsoever, nor shall the Companies, or either of them, subject any particular territory, district, person or company, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatever.

Whenever it is shown that the Companies charge one trader or class of traders or the traders in any district or territory lower charges for the same or similar services than they charge to other traders or classes of traders or to the traders in another district or territory, or make any difference in treatment in respect of any such trader or traders or in respect of any one territory as compared with any other territory, the burden of proving that such lower charges or difference in treatment do not amount to an undue preference shall lie on the Companies.

In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the Commission may, so far as it thinks reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing the traffic in respect of which it is made, or is, in the opinion of the Commission, for any other reason desirable in the interests of the public or of trade, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant:

Provided that the interests of the public or of the trade of any one territory shall not be given any unreasonable preference or advantage over the interests of the public or of the trade of any other territory:

And provided further that the practice of applying distribution or reforwarding rates for goods consigned from stations recognized from time to time as distribution centres and the granting of such distribution or reforwarding rates shall not be deemed to constitute an undue or unreasonable preference or advantage except to the extent that the Commission shall decide, on the representation of the Government of any particular territory."

5. Section *thirty-five* of the principal law, which relates to the right of the Governments or any person to submit complaints against the Companies to the Commission and the Commission's power to award damages or grant interdicts, is hereby amended by the addition at the end thereof of the following new paragraph:—

"(c) cases of complaint of undue or unreasonable preference or advantage—

(i) against any one territory, or

(ii) against any district or the traders in any district through the application of distribution or reforwarding rates,

shall be submitted to the Commission only by the Government of the territory which is concerned or in which the district is situated."

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-seventh day of May One thousand Nine hundred and Thirty-seven.

W. H. CLARK,  
High Commissioner.

By Command of His Excellency the  
High Commissioner.

H. LESTER SMITH,  
Acting Administrative Secretary.