

## BECHUANALAND PROTECTORATE.

No. 36 of 1939.

(Promulgated 8th September, 1939.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Bechuanaland Protectorate Emergency  
Powers (Defence) Proclamation, 1939.

Whereas it is expedient to make provision for purposes connected with the defence of the Bechuanaland Protectorate (hereinafter referred to as "the Territory") in any War in which His Majesty the King may be engaged:

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

1. (1) Subject to the provisions of this section, the High Commissioner may by Notice in the *Gazette* make such Regulations (in this Proclamation referred to as "Defence Regulations") as appear to him to be necessary or expedient for securing the public safety, the defence of the Territory, the maintenance of public order and the efficient prosecution of any war in which His Majesty may be engaged, and for maintaining supplies and services essential to the life of the community.

Defence  
Regula-  
tions.

*for manual  
services see  
H.C.N. 198/39  
revised by  
Proc 38/41*

(2) Without prejudice to the generality of the powers conferred by the preceding sub-section, Defence Regulations may, so far as appears to the High Commissioner to be necessary or expedient for any of the purposes mentioned in that sub-section—

(a) make provision for the apprehension, trial and punishment of persons offending against the Regulations, and for the detention of persons whose detention appears to the High Commissioner to be expedient in the interests of the public safety or the defence of the Territory;

(b) authorise—

(i) the taking of possession or control, on behalf of His Majesty, of any property or undertaking;

(ii) the acquisition, on behalf of His Majesty, of any property other than land;

(c) authorise the entering and search of any premises.

*(d) See Proc 57/40*

(3) Defence Regulations may provide for empowering such authorities, persons or classes of persons as may be specified in the Regulations to make orders, rules and by-laws for any of the purposes for which such Regulations are authorised by this Proclamation to be made, and may contain such incidental and supplementary provisions as appear to the High Commissioner to be necessary or expedient for the purposes of the Regulations.

(4) A Defence Regulation, and any order, rule or byelaw duly made in pursuance of such a Regulation, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Proclamation or in any instrument having effect by virtue of any enactment other than this Proclamation.

Punishment  
in certain  
cases of  
treason.

2. Where any person is convicted of treason on the ground that he has been adherent to the King's enemies, giving them aid and comfort, the court may, instead of passing on him the sentence of death by hanging prescribed by section *two hundred and eighty-six* (1) of the Bechuanaland Protectorate Criminal Procedure and Evidence Proclamation, 1938, sentence him to be put to death by shooting; and the court by which any person is sentenced to death under this section may give such directions as the court thinks proper with respect to the custody of that person pending the execution of the sentence, and with respect to the manner in which the sentence is to be executed.

Hearing of  
proceedings  
in camera.

3. (1) If, as respects any proceedings before a court (whether instituted before or after the commencement of this Proclamation), the court is satisfied that it is expedient, in the interests of the public safety or the defence of the Territory so to do, the court—

(a) may give directions that, throughout, or during any part of, the proceedings, such persons or classes of persons as the court may determine shall be excluded;

(b) may give directions prohibiting or restricting the disclosure of information with respect to the proceedings.

The powers conferred by this sub-section shall be in addition to, and not in derogation of, any other powers which a court may have to give such directions as aforesaid.

for sect 1(a) see Proc  
14/40 Gov  
753-  
see p  
14/40

This is part of the Prison Rules  
should follow Page 7

- (t) As to the disposal by sale or otherwise of the effects of any prisoner who has escaped, died or failed to claim or receive the same;
- (u) As to the temporary detention of any sick prisoner whose sentence has expired but whose discharge or release is certified by a medical officer to be likely to result in his death, or in serious injury to his health, or to be a source of infection to others;
- (v) As to the care and maintenance of paupers and destitute persons or any other persons temporarily lodged in any prison;

and generally as to any other matter which may be dealt with by prison rule.

3. The visiting District Commissioner of any prison, and the District Commissioner of any district (whether the prison be situate within his district or not), shall have jurisdiction to try at the prison, unless the Resident Commissioner otherwise directs either generally or specially, any alleged contravention of or failure to comply with any regulation made under section *two* by an officer or prisoner, whether the contravention or non-compliance is alleged to have taken place within the prison, or outside the same during the period of the sentence or detention of the prisoner, and shall for any such contravention or non-compliance have jurisdiction to impose penalties in accordance with section *four* or such other penalties as may be prescribed by regulation.

Jurisdiction to try breaches of regulations.

4. On the conviction of any person for the contravention of or failure to comply with any regulation, penalties may be imposed not exceeding the following scale:—

Penalties.

- (a) For a contravention or non-compliance by an officer, a fine of twenty-five pounds or, in default of payment, imprisonment with or without hard labour for a period not exceeding three months, or such imprisonment without the option of a fine, or both such fine and imprisonment;
- (b) For a contravention or non-compliance by a prisoner, any one of the following penalties:—
  - (i) Imprisonment with or without hard labour for a period not exceeding three months, which shall be served in addition to the sentence (if any) for which he is being detained; or

- (ii) Where the offence has been accompanied by violence, or in case of a third or subsequent conviction, corporal punishment in any number of strokes not exceeding ten if the offender be a convict male prisoner apparently under the age of sixty years; or
- (iii) Imprisonment with solitary confinement or spare diet and solitary confinement for any period not exceeding twenty-eight days: Provided that any sentence of solitary confinement or of spare diet shall be administered in accordance with the regulations;
- (c) For a contravention or non-compliance other than is described in paragraphs (a) and (b), a fine of fifty pounds or, in default of payment, imprisonment with or without hard labour for a period not exceeding six months.

Penalty for escape and attempting to escape.

5. Any prisoner who escapes or attempts to escape, or conspires with any person to procure the escape of any prisoner, from any prison in which he is placed or from any port, place or conveyance where he may be for the purpose of detention or labour, or who is in possession of any instrument or thing with intent to procure his own escape or that of another prisoner, shall be liable on conviction to imprisonment with hard labour for a period not exceeding twelve months to be served at the expiration of his current sentence, and in addition if his escape or attempt to escape was accompanied by any act or threat of violence to corporal punishment not exceeding ten strokes.

Short title and commencement.

6. This Proclamation may be cited as the Bechuanaland Protectorate Prisons Proclamation 1939, 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 Capetown this Sixteenth day of March, One thousand Nine hundred and Thirty-nine.

W. H. CLARK,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

H. E. PRIESTMAN,  
Administrative Secretary.