

## BECHUANALAND PROTECTORATE.

No. 59 of 1939.

(Promulgated 24th November, 1939.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Bechuanaland Protectorate Births and  
Deaths Registration Proclamation, 1939.

Whereas it is expedient to make provision for the registration of births and deaths of persons other than natives in the Bechuanaland Protectorate (hereinafter styled 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. This Proclamation shall apply to all persons in the Territory except natives, which term shall include any aboriginal native belonging to any tribe of Africa and also any persons of mixed race living as members of any native community, tribe, kraal or location in the Territory.

2. (1) The Resident Commissioner may from time to time, by Notice in the *Gazette*, appoint an officer to be styled the Registrar of Births and Deaths, who shall be the custodian of all notices of births and deaths and of all returns, registers and records of any birth or death in the Territory.

(2) The Resident Commissioner may also from time to time, by Notice in the *Gazette*, appoint officers to be styled District Registrars of Births and Deaths for each of the districts of the Territory or for such other areas therein as he may from time to time prescribe.

3. It shall be the duty of every District Registrar to inform himself as far as possible of every birth or death which occurs within his district, and, after the expiry of the time allowed under this Proclamation for giving any notice or information of any such birth or death, if the notice or information has not been given, the District Registrar may by notice in writing under his hand require any

person whose duty it is under this Proclamation to give any such information to attend within such time as is specified in the notice at the office of the District Registrar or at any other place mentioned in the notice, there to give to the District Registrar or to any other person named in the notice such information as may be necessary concerning the birth or death, as the case may be.

Duty of District Registrar on receipt of notice of birth or death.

4. (1) On receipt by the District Registrar of any notice, information, memorandum, return or certificate in respect of a birth or death given or transmitted under this Proclamation, he shall examine the same and cause any omission, defect or inaccuracy therein to be supplied or corrected as far as may be possible, and for this purpose he may require any person whose duty it is to give information under this Proclamation to attend and give information in the manner prescribed by the last preceding section.

(2) It shall be the duty of every District Registrar to ensure that every birth or death which comes to his notice is recorded on the form prescribed therefor and that such form is duly completed.

(3) The completion of such form shall constitute the registration of the birth or death recorded thereon, and such form when so completed shall be deemed to form part of the relevant birth register or death register, as the case may be.

Births and deaths registers to be kept.

5. Books shall be kept by each District Registrar to be called the "Births Register" and the "Deaths Register" respectively, and there shall be respectively transcribed therein such information as to births and deaths as is prescribed.

Registration of birth or death after one year.

6. No birth or death shall be registered after the expiry of one year from the date of such birth or death except upon the written authority of the Registrar and on payment of the prescribed fee: Provided however that after the expiry of a period of ten years from the date of birth or death, as the case may be, no such registration shall be effected except upon an order of court.

Alteration of name in births register.

7. When the birth of any person has been registered (whether under this Proclamation or under any other law) and the name under which his birth was registered is altered, either of his parents or his guardian, if he is under twenty-one years of age, or he himself, if he is twenty-one years of age or over, may

apply to the Registrar for the alteration of his name in the relative births register, and thereupon the Registrar may, if satisfied that the applicant is competent to make the application and upon payment by the applicant of the prescribed fee, amend the registration of such person's birth by inscribing the altered name on the original birth information form filed in his office in connection with the registration of such birth, but without erasing the original name therefrom, and shall instruct the District Registrar concerned to make a similar inscription in his Births Register.

8. In the case of an illegitimate child no person shall be required to give information under this Proclamation as its father concerning its birth, and the District Registrar shall not enter in any register or other book the name of any person as the father of the child except at the joint request of the mother and of the person who in the presence of the District Registrar, acknowledges himself in writing to be the father of the child. Such an acknowledgement, if made, shall be embodied in the certificate or register.

Registration of birth of illegitimate child.

9. (1) When a person was born (whether before or after the commencement of this Proclamation) of parents who were not married to each other at the time of his birth, but who married each other after the registration of his birth, application may be made to the Registrar for the registration of his birth as if his parents had been married to each other at the time of his birth, and thereupon the Registrar shall, if satisfied that the alleged parents of such person are in fact his parents and that they were legally married to each other, instruct the District Registrar concerned to register the birth in the prescribed manner as if such person's parents had been legally married to each other at the time of his birth.

Amendment of birth registration of illegitimate child after legitimation.

(2) If a person's parents who were not married to each other at the time of his birth have married each other before the registration of his birth, such birth shall be registered as if they had been married to each other at the time of his birth.

10. In the case of every child born alive, and in the case of any still-born child, it shall be the duty of the father and mother of the child, and in the event of the death, absence or other inability of the father and mother then of any person present at the birth or of

Duty to notify birth of child.

the occupier of the dwelling in which the child is born, within three months after such birth to give the prescribed notice thereof to the District Registrar or to a police officer. Every such police officer shall on receipt of such notice forthwith give written information of the birth to the District Registrar.

Duty to notify deaths.

11. It shall be the duty of every adult relative of a deceased person who was present at his death or in attendance during his last illness or at his dwelling with him, and, in default of such relatives, of every adult person present at the death of such deceased person, and, if there was no such adult person present, then of the occupier of the dwelling in which the death occurred, or, in case of the death or absence or other inability of such occupier, of every adult inmate of the dwelling, or of any person who has caused the body to be buried, to give to the District Registrar or to a police officer notice in the prescribed manner of the death within thirty days thereafter. Every such police officer shall on receipt of such notice, forthwith give written information of such death to the District Registrar.

Certificate by medical practitioner as to cause of death.

12. Whenever any medical practitioner has attended during the last illness of any person, it shall be the duty of such medical practitioner, on application by the District Registrar or by the person giving notice of death, forthwith to send to the District Registrar, without fee or reward, a certificate of the cause of death or a notice of inability to sign such a certificate.

Duties of Registrar.

13. (1) The Registrar shall transcribe into registers, to be called the "Births Register" and the "Deaths Register" respectively, all information received from the District Registrar as to births and deaths respectively.

(2) The Registrar shall furnish the public, upon application and upon payment of the prescribed fee, with birth and death certificates, and shall cause a search to be made in his registers for that purpose.

(3) Every such certificate signed by the Registrar shall in all courts of law and public offices within the Territory be *prima facie* evidence of the particulars set forth therein.

Returns to be furnished by District Registrars.

14. (1) Every District Registrar shall transmit at the end of each month to the Registrar by registered post a package containing all original forms of information of

births and deaths, together with all certificates and other documents appertaining thereto, and shall simultaneously transmit under the same or a separate cover an invoice specifying the contents of such package.

(2) Every District Registrar shall render to the Registrar, on the thirtieth day of June and the thirty-first day of December in each and every year, returns of all births and deaths registered in his district for the six months commencing on the preceding first day of January and the first day of July respectively.

15. Notwithstanding anything contained in any law, no affidavit or solemn declaration made by any person for the purpose of complying with any provision of this Proclamation or the regulations relating to the registration of births and deaths shall be liable to stamp duty.

Affidavits, etc., to be exempt from stamp duties.

16. Any person who without reasonable cause or excuse fails to give or transmit any notice, information, memorandum, return or certificate required by this Proclamation or by any regulation to be given or transmitted shall be guilty of an offence:

Penalty for failure to give notice or information.

Provided that no person shall be liable to be convicted under this section if it appears that any other person has duly given or transmitted the required notice, information, memorandum, return or certificate.

17. Any person who wilfully makes or causes to be made, for the purpose of being inserted in any notice or information or in any births or deaths register, any false statement relating to any of the particulars required by this Proclamation or by any regulation to be made known and registered shall be guilty of an offence and shall be liable on conviction to the penalties which by law may be imposed for the crime of perjury.

Penalty for false statements.

18. Any person who wilfully destroys or injures or renders illegible, or causes to be destroyed or injured or rendered illegible, any register or certified copy thereof or any part thereof, or falsely makes or counterfeits, or causes to be falsely made or counterfeited, any part of a register or certified copy thereof, or wilfully inserts or causes to be inserted in any register or certified copy thereof or part thereof any false entry, or wilfully gives or utters any false certificate or certifies any writing to be a copy of or extract from a register knowing such copy or extract to be false in

Penalty for wilfully destroying or falsifying registers and wilfully giving false certificates.

any part, or who forges or counterfeits the signature, seal, impression or stamp of the Registrar or of any District Registrar, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding five years; and any person having the custody or care of any register who knowingly permits any such act to be committed shall also be guilty of an offence and liable to the same penalty.

Penalties for contraventions where no penalty specially provided.

19. Any person who contravenes or fails to comply with any provision of this Proclamation or of any regulation, for the contravention whereof or for the failure to comply wherewith no penalty is specially provided, shall be liable on conviction to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

Power to make regulations.

20. The High Commissioner may make regulations—

- (a) as to the management of the Registrar's office or of any District Registrar's office;
- (b) prescribing the duties and powers of the Registrar and of the District Registrars;
- (c) prescribing the fees payable under this Proclamation;
- (d) prescribing the forms of all registers, returns and other documents required for purposes of this Proclamation;
- (e) providing for the inspection of registers, returns and indexes and for the issue of certified copies;
- (f) providing for any other matter which, under this Proclamation, requires to be prescribed.

Provision for special registration.

21. Notwithstanding anything to the contrary herein contained, it shall be lawful for the Registrar to register, within six months after the commencement of this Proclamation, the birth of any person born in the Territory prior to the commencement of this Proclamation, whose birth has not been registered under the provisions of Act No. 20 of 1880 of the Cape of Good Hope applied to the Territory by Proclamation No. 36 of 1909, on production of proof, satisfactory to the Registrar, of such birth, and upon payment of a fee of twenty shillings.

Repeal.

22. Act No. 20 of 1880 of the Cape of Good Hope as applied to the Territory by Proclamation No. 36 of 1909 is hereby repealed.

23. This Proclamation may be cited as the <sup>Short title</sup> Bechuanaland Protectorate Births and Deaths <sup>and com-</sup> Registration Proclamation, 1939, and shall <sup>mencement.</sup> have force and take effect from the first day of January, 1940.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twentieth day of November, 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.