

BECHUANALAND PROTECTORATE.

No. 9 of 1940.

(Promulgated 1st March, 1940).

PROCLAMATION

By His Excellency the High Commissioner.

Entitled the Railway Accident Inquiry
(Bechuanaland Protectorate)
Proclamation, 1940.

Whereas it is expedient to make provision for the holding of inquiries in cases of accidents on railways 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. When in the course of working a railway in the Bechuanaland Protectorate an accident occurs which is attended with loss of human life or grievous bodily injury to any person or in which a passenger train is concerned, the General Manager of the Railway shall, without unnecessary delay, send written notice of the accident to the Resident Commissioner.

Accidents on railway to be reported.

2. The report shall contain a brief statement of the nature of the accident and of the injuries, if any, caused to any person or persons.

Nature of report.

3. The Resident Commissioner, if he considers such course advisable, may order an inquiry into the cause of any such accident and may direct a District Commissioner or other competent person to investigate the matter with the aid of an Assessor or Assessors to be appointed by the Resident Commissioner. Such Assessor, or one at least of such Assessors if more than one is appointed, shall be a person who is fully conversant with railway practice and technicalities.

Resident Commissioner may order inquiry.

4. For the purpose of making such inquiry the District Commissioner may—

Procedure at inquiry.

- (a) enter and inspect any place or building, works, offices, stock, plant or machinery, the entry or inspection whereof appears to him requisite for such purpose;

- (b) summon and bring before him all such persons as he may think necessary and who are deemed capable of giving information or evidence concerning such accident;
- (c) examine all such persons on oath and reduce that examination to writing;
- (d) require and enforce the production of all books, papers and documents which he may consider necessary for such purpose.

Default by witnesses. 5. If any person summoned as a witness fails to attend in pursuance of such summons, such person shall, unless some reasonable excuse be proved on oath or affidavit, be liable to be fined by the District Commissioner issuing such summons such sum, not exceeding ten pounds, as the District Commissioner shall think fit, and the District Commissioner may issue his warrant for the apprehension of such person.

Oaths and forms to be used. 6. The District Commissioner presiding at the inquiry shall administer to the persons appearing to give evidence such oaths or other solemn forms as *mutatis mutandis* are used in criminal cases, and the forms of summonses and of warrants of apprehension shall be, as near as may be, those in use in similar matters in Subordinate Courts.

Contempts. 7. All contempts committed by witnesses or other persons before or in regard to any inquiry shall be dealt with in like manner *mutatis mutandis* as contempts committed by witnesses or other persons before a Subordinate Court.

Expenses of witnesses. 8. All witnesses summoned or attending to give evidence before a District Commissioner shall be entitled to receive their expenses as if summoned to give evidence at a criminal trial before a Subordinate Court.

Inquiry to be public, subject to discretion of District Commissioner. 9. The inquiry shall be conducted openly and the public and the Press shall have access to the place where the inquiry is being held: Provided, however, that the District Commissioner may in his discretion exclude the public and the Press from the inquiry or any part thereof and may hold such inquiry in such manner and under such conditions as he may think most effectual for ascertaining the causes and circumstances of the accident and for enabling him to make his report.

10. If the District Commissioner after concluding any inquiry shall see reason to believe that any crime or offence has been committed in connection with the accident inquired into by any person who can be made amenable to justice, the presiding District Commissioner may cause such person to be summoned or apprehended and, in such case, shall report the matter to the Attorney-General in order that criminal proceedings may be instituted should the Attorney-General so decide.

Powers and duties of District Commissioner.

11. At the close of the inquiry the District Commissioner shall submit a copy of the proceedings and a report in writing to the Resident Commissioner as to the causes of origin of the accident, and shall state whether in his opinion it was caused by design or was the result of accident or negligence, stating the full particulars of the case and the conclusion at which he has arrived in regard to it.

District Commissioner to report finding.

12. If any person who is not a District Commissioner be appointed to hold an inquiry he shall have all the powers and be cast in all the duties of a District Commissioner under this Proclamation.

Holding of inquiry by person not a District Commissioner.

13. The holding of an inquiry shall not exempt any District Commissioner or justice of the peace having jurisdiction from holding any such inquest as is prescribed by any law providing for the holding of inquests.

Inquiry not to affect holding of inquest.

14. This Proclamation may be cited as the Railway Accident Inquiry (Bechuanaland Protectorate) Proclamation, 1940, and shall have force and take effect from the date of its publication in the *Gazette*.

Short title and commencement.

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town this Twenty-seventh day of February One thousand Nine hundred and Forty.

E. J. HARDING,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.