

BECHUANALAND PROTECTORATE.

No. 34 OF 1941.

(Promulgated 6th June, 1941.)

PROCLAMATION

By His Excellency THE HIGH COMMISSIONER.

Entitled the Bechuanaland Protectorate Immigration Proclamation, 1941.

Whereas it is expedient to define the conditions under which natives not domiciled in the Bechuanaland Protectorate (hereinafter referred to as "the Territory") shall be permitted to enter and to remain in 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. (1) Every native domiciled in any part of Africa south of the Equator, other than the Territory, who may desire to enter the Territory, shall be in possession of a pass signed by a person authorized to sign passes in the country from which such native desires to enter the Territory.

Condition of entry.

(2) Any such native who enters the Territory without being in possession of such a pass, or who fails to produce such pass on demand by any Administrative Officer or Police Officer, shall be guilty of an offence and may be arrested without warrant, and upon conviction shall be liable to a fine not exceeding ten pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

*Proc.
H.S. 9/43.
2(a).
Offence to
return after
deportation.
D.C. may order
return.
2(b). 270 or 4 mos.
L.H.*

(3) Any court before which a native has been convicted under the last preceding subsection may, in addition to any penalty imposed, order that such native shall be returned to the country from which he entered the Territory, and for that purpose such native may be detained in custody for such time as may be reasonably necessary for the due execution of such order.

2. (1) Subject to the provisions of this section any native not having been born or not domiciled in the Territory who, whether before or after the commencement of this Proclamation, has been convicted of an offence

Power to make deportation orders, and procedure to be followed.

in the Territory or elsewhere and has been sentenced to imprisonment without the option of a fine, and who, by reason of the circumstances connected with the offence or for any other reason, is deemed by the Resident Commissioner to be an undesirable inhabitant, may by order under the hand of the Resident Commissioner be deported from the Territory, and pending such deportation may be detained in such custody as the Resident Commissioner may direct.

(2) No deportation order shall be made under this section except where a District Commissioner has, in accordance with the provisions of the next following two sub-sections, made a report on the case and the Resident Commissioner is satisfied having regard to the findings of fact and any conclusions of law as stated in the report, that such order may lawfully be made.

*penalty for
re-~~turning~~
after having
been deported
for 2A see
Proc 9/43*

(3) (a) A notice in the prescribed form shall be served upon the person charged specifying, with sufficient particulars to give him reasonable information as to the nature of the facts alleged against him, the grounds upon which it is alleged that an order may be made against him under this section, and requiring him to show cause, before the District Commissioner at a time to be stated in the notice, why such order should not be made in respect of him.

(b) In any case where it is intended to take proceedings against any person under this section on the ground that he is an undesirable inhabitant, and it is represented on oath or affidavit to a District Commissioner that that person is an undesirable inhabitant, the District Commissioner may issue a warrant for his arrest, and if the notice mentioned in paragraph (a) of this sub-section shall not have already been served upon him it shall be so served not later than twenty-four hours after his apprehension.

(4) (a) At the time appointed in the notice served under the foregoing sub-section or at any adjournment of the hearing the District Commissioner shall take such evidence upon oath as is tendered in support of the charges, and the witnesses may be cross-examined by the accused or his Counsel, and the accused may on his own behalf call such witnesses and tender such other evidence as may be relevant upon the questions at issue.

(b) The District Commissioner, after considering the evidence adduced before him and

making any further investigations which he may consider to be desirable, shall make a report to the Resident Commissioner setting out his findings of fact and his conclusions on any questions of law involved, and, if he thinks fit, making a recommendation as to the issue in the case of any order or orders under this section.

(5) For the purposes of this section a native shall not be deemed to be domiciled in the Territory unless he shall have resided for a period of not less than three years in a Native Reserve with the consent and permission of the Chief thereof or in a district other than a Native Reserve with the consent and permission of the District Commissioner.

3. In this Proclamation, unless inconsistent with the context— Definitions.

“ Native ” shall mean any aboriginal native belonging to any tribe of Africa and shall include persons of mixed race living as members of any native community, tribe, kraal or location in the Territory;

“ undesirable inhabitant ” shall mean a person who is or has been conducting himself so as to be dangerous to peace, good order, good government or public morals.

4. Proclamation No. 10 of 1919 and Proclamation No. 28 of 1927 are hereby repealed. Repeal.

5. This Proclamation may be cited as the Bechuanaland Protectorate Native Immigration Proclamation, 1941, 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-third day of May One thousand Nine hundred and Forty-one.

WALTER C. HUGGARD,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.