

## BECHUANALAND PROTECTORATE.

No. 58 of 1941.

(Promulgated 3rd October, 1941.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER

Entitled the Bechuanaland Protectorate Death  
Duties Proclamation, 1941.

Whereas it is expedient to make better provision for the payment of duty in respect of successions to inheritances and to provide for the payment of duty upon the estates of deceased persons in the Bechuanaland Protectorate, hereinafter referred to as "the Territory":

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

#### CHAPTER I.

##### ESTATE DUTY.

1. In the case of every person dying after the date of taking effect of this Proclamation, there shall be charged, levied and collected in respect of the estate of such person a duty to be known as estate duty.

Levy of  
estate  
duty

2. Estate duty shall be charged upon the dutiable amount of the estate as calculated in accordance with this Chapter, and shall be levied at the rates set out in the First Schedule to this Proclamation.

Rates at  
which  
levied.

3. (1) For the purposes of this Chapter the estate of any person shall consist of—

What  
constitutes  
estate.

(a) all property of that person which passes on his death;

(b) all property which, in accordance with this section, is deemed to pass on his death.

(2) "Property" in relation to any estate includes—

- (a) any immovable property situated in the Territory;
- (b) any movable property physically situated in the Territory at the date of the death of the deceased person whose estate is chargeable with duty;
- (c) any movable property wheresoever situated at that date, provided such person was ordinarily resident in the Territory;
- (d) any limited interest in any such immovable or movable property;
- (e) any debt which is secured upon immovable property by bond registered in the Territory;
- (f) any debt recoverable or right of action enforceable in the courts of the Territory;
- (g) any stocks or shares in any company whether those stocks or shares are transferable by delivery or by registration and wheresoever such registration may require to be effected, provided that the deceased person whose estate is chargeable with duty was ordinarily resident in the Territory.

(3) Any such property shall be deemed to be property passing on the death of any person if such person, notwithstanding that at the date of his death such property may have been held by or registered in the name of some other person (whether in the name of an individual or a body corporate or unincorporate) directly or indirectly and for his own benefit had the control, order or disposition of the property, or of the profits derivable therefrom.

(4) Property which is deemed to pass on the death of any person shall include—

- (a) any amount due and receivable under any policy of insurance effected by such person upon his own life when the policy has been wholly kept up by him; or a part of that amount in proportion to the aggregate of the premiums paid by him, when the policy has been partly kept up by him;
- (b) any fiduciary interest held immediately prior to his death, but which ceased thereon, in any immovable or movable property;

- (c) any usufructuary or other like interest held immediately prior to his death but which ceased thereon in any immovable or movable property where such usufructuary or other like interest was—
  - (i) created by a disposition *inter vivos* of the deceased, or
  - (ii) enjoyed by the deceased after it had been enjoyed by a person other than the spouse of the deceased;
- (d) any annuity in which such person had an interest, to the extent of any advantage accruing or arising by survivorship on his death;
- (e) any property passing under a *donatio mortis causa* made by such person;
- (f) any property exceeding in value one hundred pounds passing under a *donatio inter vivos* made by such person after the taking effect of this Proclamation, and taking effect within two years immediately prior to his death.

4. The dutiable amount of any estate shall be determined by making the following deductions from the total value of all property included therein in accordance with the last preceding section, that is to say:—

Determi-  
nation of  
dutiable  
amount.

- (a) All expenditure in connection with the death and funeral of the deceased which the Master considers to be fair and reasonable;
- (b) all debts due by the deceased to persons ordinarily resident within the Territory;
- (c) all costs which have been allowed by the Master in the administration and liquidation of the estate, other than expenses incurred in the management and control of any income accruing to the estate after the date of death;
- (d) the amount of any death duty or duties chargeable by any other State in respect of any movable property physically situated outside the Territory but included as property in an estate under sub-section (2) (c) of section *three*;
- (e) any balance of debts due by the deceased to persons ordinarily resident outside the Territory which it is proved to the satisfaction of the Master, cannot be discharged from any property of the deceased outside the Territory which is not property included in the estate of the deceased;

- (f) the value of any interest falling under paragraph (b) or (c) of sub-section (4) of section *three*, where such interest was created under the terms of a *bona fide* transaction of purchase and sale;
- (g) the value of any usufruct over property which formed part of the estate of a pre-deceased spouse;
- (h) the value of any property passing by disposition of the deceased to any public institution within the Territory of a charitable, educational or ecclesiastical nature or required to be devoted wholly to charitable, educational or ecclesiastical purposes of a public nature within the Territory under any such disposition, or passing by disposition of the deceased to any public institution within the Territory which has for its purposes the advancement of science or art;
- (i) the value of any property passing by disposition of the deceased to the Government of the Territory;
- (j) any amount due and receivable under any policy of insurance upon the life of the deceased, when such amount is payable under a duly registered antenuptial or post-nuptial contract to the surviving spouse or children of the deceased, or when such policy has been ceded by the deceased during his lifetime *bona fide* and for full consideration, in money or money's worth, otherwise than as security for the payment of any sum of money or the fulfilment of any other obligation.

Value of property in estate.

5. The value of any property passing or deemed to pass on the death of any person shall be—

- (a) in the case of property (other than stocks and shares) disposed of by a *bona fide* purchase and sale in the course of the liquidation of the estate of the deceased person, the price realised by such sale;
- (b) in the case of any interest in immovable or movable property falling under paragraph (b) or (c) of sub-section (4) of section *three*, the value of the advantage or benefit accruing to any person by

reason of the cessation of the interest held by the deceased, such value being determined as follows:—

- (i) where the interest ceasing was a fiduciary interest and the person to whom the advantage or benefit accrues is the fidei commissary heir to such property, the value shall be the fair market value, as at the date of cessation of the fiduciary interest, of the property in respect of which the fiduciary interest was held;
- (ii) where upon the cessation of the interest of the deceased there accrues to the holder of the bare *dominium* in the property the full ownership in such property, the value shall be the difference between the fair market value of the full ownership of the property as at the date of such cessation and the value of the bare *dominium* as at the date when such bare *dominium* was first acquired under the disposition creating the interest held by the deceased: Provided that there shall be deducted from the value so determined the amount whereby such value has been increased by any improvements in the property effected at the expense of any holder of the bare *dominium* during the continuance of the interest of the deceased;
- (iii) where the person to whom the advantage or benefit accrues acquires on the cessation of the interest of the deceased a usufructuary or other like interest only, the value shall be determined by capitalising at six per centum, over the expectation of life of such person or if the said interest is to be held for a lesser period over such lesser period, the annual value of the interest so ceasing;
- (iv) for the purposes of this paragraph the term "annual value" means, in the case of a usufructuary or other like interest an amount equal to six per centum

upon the capital value (as determined in accordance with section *six*) of the property over which the interest was held, less any interest payable by the person deriving the benefit or advantage in respect of any capital debt (other than a debt incurred by such person) secured upon the said property: Provided that where it is established to the satisfaction of the Master that the property in question could not reasonably be expected to produce an annual yield equal to six per centum on the capital value of such property, the Master may fix such sum as may seem to him to be fair and reasonable, and the sum so fixed shall, subject to the provisions of section *nineteen*, be the annual value of such property for the purposes of this paragraph, and in the case of any limited interest or in the case of any limited interest in books, pictures, statuary or other objects of art the term "annual value" means the average net receipts (if any) derived from such interest by the deceased, calculated over the last three years of his life;

- (v) any valuation of any property or any interest in property required for the purposes of this paragraph shall be determined in accordance with section *six*.
- (c) in the case of any advantage accruing or arising by survivorship in respect of any annuity, the capital value of such advantage, calculated on a basis of six per centum per annum, on the life interest or other interest of the survivor;
- (d) in the case of stocks and shares, the middle market price on the date of the death of the deceased person: Provided that if no such middle market price can be ascertained, the value shall be such value as is determined to be fair and reasonable under section *six*;
- (e) in the case of all other property, the fair market value of such property as at the date of death of the deceased person.

6. Subject to the provisions of section *nineteen*, the fair and reasonable value of any stocks and shares in respect of which no middle market price can be ascertained and the fair market value of any other property shall be determined for the purposes of the last preceding section by a sworn appraisal by some impartial person or persons appointed by the Master.

Determination of values.

7. Nothing in this Chapter shall be construed as imposing the duty chargeable thereunder on the interest in the joint estate of the survivor of two spouses married in community of property, in so far as such interest arises by virtue of such community.

Exemption of survivor's interest in community of property.

## CHAPTER II.

### SUCCESSION DUTY.

8. In the case of every succession which is deemed in accordance with this Chapter to have accrued to any person, there shall be charged, levied and collected a duty to be known as succession duty, at the rates set out in the Second Schedule to this Proclamation.

Levy of succession duty.

9. For the purposes of this Proclamation, the person by virtue of whose death any succession is deemed to have accrued shall be known as the "predecessor" and the person to whom any such succession is deemed to have accrued shall be known as the "successor".

Definition of "predecessor" and "successor".

10. A succession shall be deemed to have accrued whenever any person has become entitled to, or to any interest in, any property as defined for the purposes of Chapter I—

Accrual of succession.

- (a) by virtue of any disposition made by any predecessor who has died after the taking effect of this Proclamation, whereby any such property or any interest in such property (other than a fidei commissary interest created by such disposition) passes on the death of such predecessor; or
- (b) by reason of the cessation on the death of any such predecessor of any interest held by such predecessor in such property; or
- (c) by reason of any advantage accruing by survivorship to such person in respect of any annuity in which any such predecessor had an interest; or

- (d) by devolution in accordance with law on the death of any such predecessor; or
- (e) by virtue of any disposition made by any such predecessor whereby such property or interest therein is deemed, under paragraph (e) or (f) of section *three*, to have passed on the death of such predecessor.

Value of property in succession.

11. Save as in the next succeeding section is provided, the value of any property passing by virtue of any succession shall be the value set upon that property for the purposes of the estate duty chargeable under Chapter I.

Valuation of limited interests.

12. (1) Where the succession consists of a fiduciary interest of any property under a *fidei-commissum* with which such property is burdened, the value of the succession shall be determined as though the fiduciary interest was a usufructuary interest:

Provided that if the successor or any person in his right or on his behalf at any time becomes entitled to the full ownership of the property in respect of which he holds such fiduciary interest he shall then pay succession duty on the difference between the full net value of the property as at the time when he becomes so entitled and the value determined as aforesaid.

(2) Where the succession consists of the acquisition by a fidei commissary upon the expiry of any preceding fiduciary interest of the full ownership in any property in respect of which he held such fidei commissary interest, the value of the succession shall be the full net value of the property in respect of which the full ownership is acquired.

(3) Where the succession consists of an annuity enjoyable either for a fixed period or for the life of the successor, the value of the succession shall be determined by capitalising such annuity at six per centum over the fixed period or over the expectation of life of the successor, as the case may be.

(4) Where the succession consists of a right of usufruct over property or any other interest in respect of property, enjoyable either for a fixed period or for the life of the successor, the value of the succession shall be determined by capitalising at six per centum the net annual value of such usufruct or other interest over the fixed period or the expectation of life of the successor, as the case may be.

(5) Where the succession consists of the bare *dominium* in any property burdened by any such usufruct or other interest as is referred to in sub-section (4), the value of the succession shall be determined by deducting from the full net value of the property so burdened the value of the usufruct or other interest as determined in accordance with that sub-section :

Provided that the payment of duty may be postponed until the successor or any person in his right or on his behalf is entitled to the full ownership of the property or disposes of his bare *dominium*.

(6) (a) Where the succession consists of the accrual of full ownership in any property to the holder of the bare *dominium* therein by reason of the cessation of any usufructuary or other like interest in such property held by the predecessor, the value of the succession shall be the difference between the fair market value of the full ownership of the property as at the date of such cessation and the value of the bare *dominium* as at the date when such bare *dominium* was first acquired under the disposition creating the interest held by the deceased :

Provided that there shall be deducted from the value so determined the amount whereby that value has been increased by any improvements effected in the property at the expense of any holder of the bare *dominium* during the continuance of the predecessor's interest ;

(b) Where the succession consists of an advantage accruing to the successor by survivorship on the cessation of an annuity, the value of the succession shall be determined by capitalising at six per centum over the period of expectation of life of the successor (or if the period for which the succession is to be enjoyed is for a lesser period, over such lesser period) the average amount of such annuity calculated over the period of three years immediately prior to the death of the predecessor, or if such annuity has been enjoyed by the predecessor for a period of less than three years, over such lesser period.

(7) For the purposes of this section " the full net value of the property " means the amount remaining after deducting from the value of the property, as determined in accordance with section *six*, the amount of any capital debt secured upon such property which is taken over by the successor; and " the net

annual value" of any usufruct means the amount remaining after deducting from a sum equivalent to six per centum upon the capital value of the property subject to the usufruct, as determined in accordance with section *six*, any interest payable by the usufructuary in respect of any capital debt (other than a debt incurred by such usufructuary) secured upon the property.

Refund of  
duty where  
succession  
lapses.

13. (1) In any case in which a succession has accrued to any successor under a condition that on the happening of an event, other than the death of such successor, the succession shall lapse and the interest of the successor shall pass to another, then, on the happening of that event, the Government of the Territory may refund to the successor a proportionate amount of the duty paid in respect of the accrual of the succession to him, and the amount so refunded shall become a debt due to the Government by the person upon whom the succession shall so devolve.

(2) For the purpose of determining the amount to be refunded under those circumstances, the interest of the successor in the succession shall be calculated as if he had been entitled to a usufructuary interest in the succession during the period for which he was entitled thereto.

The value of any such interest shall be determined by capitalising at six per centum over the period for which the succession has been enjoyed the annual value, as defined for the purposes of paragraph (b) of section *five*, or any amendment thereof.

Abatement.

14. In calculating the amount of succession duty payable in respect of any succession, there shall be allowed an abatement of one hundred pounds, which shall be diminished by one pound for every pound by which the value of the succession exceeds one hundred pounds.

The amount remaining after the allowance of any such abatement shall be the dutiable amount of such succession.

Exemp-  
tions.

15. There shall be exempt from succession duty—

- (a) any succession accruing from any predecessor to his surviving spouse;
- (b) any succession accruing to any public institution within the Territory of a charitable, educational or ecclesiastical nature, or required to be devoted wholly

to charitable, educational or ecclesiastical purposes of a public nature within the Territory, or accruing to a public institution within the Territory which has for its purposes the advancement of science or art;

- (c) any succession accruing to the Government of the Territory;
- (d) any succession falling under paragraph (b) of section *ten* where the successor is entitled to the benefit or advantage of the cessation of the interest under a *bona fide* transaction of purchase and sale.

16. (1) Wherever by reason of the terms of any disposition it is not possible to ascertain until some future date the person to whom any succession created by that disposition will accrue, the executor may require the Master to assess the liability for duty in respect of such succession and the Master shall accept the payment of a present sum in discharge of such assessment as a full and complete discharge of any liability for succession duty in respect of such succession.

Assessment  
of duty  
where  
succession  
contingent.

(2) In making such an assessment the Master shall take into consideration the contingencies affecting the liability to, and the rate and amount of, the duty and shall assess the amount payable, at the present value of the contingent liability.

### CHAPTER III.

#### ADMINISTRATION.

##### *Part I.—Assessment and Payment of Duty.*

17. For the purposes of the assessment by the Master of the duties payable under this Proclamation, every administration and distribution account rendered to the Master in accordance with the Administration of Estates Proclamation, 1933, or any amendment thereof, shall be accompanied by an affidavit by the executor setting out the nature and value of any property which, under sub-section (4) of section *three*, is deemed to pass on the death of the deceased person:

Rendering  
of accounts.

Provided that in the case of any estate or property liable to the duties imposed under this Proclamation or any amendment thereof which, whether under the provisions of any

Proclamation or otherwise, is not required to be administered under the supervision of the Master, the Master may require accounts to be rendered to him and on receipt of such accounts shall proceed to the assessment of any duties payable under this Proclamation or any amendment thereof:

Provided further that any person administering any such estate or property, whether under the provisions of any Proclamation or otherwise, who fails to render such accounts as the Master may require of him shall incur a penalty not exceeding one hundred pounds:

Provided also that in the event of any such person failing to render the required accounts within the period prescribed by the Master, the Master may proceed to make an estimated assessment of the duties payable in such sum as he may consider to be fair and reasonable, and the duties so estimated shall thereupon become payable in like manner as is provided in the case of duties assessable otherwise under the provisions of this Proclamation or any amendment thereof.

Master to assess duty and to certify same to Financial Secretary.

18. It shall be the duty of the Master with whom any such account is lodged to determine in accordance with this Proclamation the dutiable amount of the estate and of any successions disclosed in such account and affidavit (if any) or of so much of such estate or successions as is disclosed therein, and to assess the duty thereon and to certify the same to the Financial Secretary.

Review of assessment by Financial Secretary.

19. (1) Any account in respect of which the Master has—

- (a) not certified any dutiable amount, or
- (b) has certified a dutiable amount which, in the opinion of the Financial Secretary, does not represent the correct amount upon which duty is required to be paid under this Proclamation,

may be reviewed by the Financial Secretary, and any dutiable amount found to be disclosed by such account may be determined by him, and the Master shall assess the duty payable in accordance with the dutiable amount so determined by the Financial Secretary.

(2) For the purposes of this section the Financial Secretary shall have access to any record in the office of the Master relative to the estate or succession chargeable with duty.

20. A notice of assessment of any duty chargeable under this Proclamation shall be issued by the Master to the executor, and the duty shall be paid on such days as may be prescribed in the said notice and may be paid in one sum or in instalments of equal or varying amounts as may be determined by the Master having regard to the circumstances of the case.

Notice of assessment.

21. An assessment shall be issued in respect of each administration and distribution account and affidavit filed in which any liability for duty is disclosed, due regard being had in the calculation of any duty to any duty chargeable on any previous accounts or affidavits lodged in respect of the same estate.

Assessment of interim accounts.

22. On the expiry of thirty days from the date of payment notified in accordance with section *twenty* in respect of any assessment of estate duty, interest at the rate of six per centum per annum shall be payable on any amount remaining unpaid:

Payment of interest.

Provided that where the assessment of duty is delayed beyond a period of twelve months from the date of death, such interest at the rate of six per centum per annum shall be chargeable as from a date twelve months after the date of death:

Provided further that the Master shall remit all or any portion of the interest chargeable if he is satisfied that the delay in the assessment of duty has not been occasioned either by the executor or by any person liable for the duty.

23. The person liable for the duties chargeable under this Proclamation shall be:—

Person liable for duty.

- (a) where estate duty is chargeable on property passing on the death of the deceased person whose estate is so chargeable, the executor administering such estate;
- (b) where estate duty is chargeable on property deemed to pass on the death of the deceased person:—
  - (i) as to moneys received for any policy of insurance upon the life of the deceased person, the person by whom or on whose behalf such moneys have been received;
  - (ii) as to property in which the deceased had an interest which terminated on his death, the person to whom any advantage accrued by the death;

(iii) as to any advantage accruing by survivorship to any person in respect of an annuity in which the deceased had an interest, the person to whom such advantage accrued;

(iv) as to any property which passed under a *donatio mortis causa* or under a *donatio inter vivos* falling within paragraphs (e) and (f) of sub-section (4) of section three, the donee;

(e) where any succession duty is payable in respect of any succession, the successor.

Duty payable by executor.

24. Anything to the contrary notwithstanding contained in the last preceding section, any duty payable under this Proclamation shall be payable by and recoverable from the executor of the estate which is chargeable with estate duty or from which the succession in respect of which succession duty is chargeable is deemed to have accrued:

Provided that the liability of any executor under this section shall be a liability in his capacity as executor only and for an amount not exceeding the available assets in the estate.

Right of recovery by executor.

25. Every executor who is required to pay estate duty in respect of any property which falls under paragraph (b) of section *twenty-three* shall be entitled to recover from the person liable therefor the duty payable in respect of such property. The duty payable in respect of any such property shall be deemed to be such proportion of the whole duty payable in respect of the estate as the value of the said property, as determined for the purposes of this Proclamation, bears to the total value of the estate as so determined.

Succession duty deductible from succession.

26. Every executor who is required to pay succession duty in respect of any succession shall be entitled to deduct from the amount paid over by him the amount of the duty paid by him or, in the event of any successor being satisfied otherwise than in money paid over by him, to recover from the successor the amount of the duty so paid.

Right to mortgage property.

27. To provide for the payment of any duty chargeable under this Proclamation, the person liable therefor may, with the consent of the Master, borrow any moneys or mortgage any property in respect of which the liability for duty arises, notwithstanding any provision to the contrary contained in any testamentary or other disposition or in any law.

28. Any person who has disposed of property in respect of which a liability for duty in accordance with paragraph (b) of section *twenty-three* thereafter arises, without having received therefor full consideration in money or money's worth, may recover from the person to whom he had disposed of such property the amount of duty with which he is chargeable in respect thereof.

Recovery of duty paid in certain cases.

29. There shall be set off against any estate duty chargeable under this Proclamation any transfer duty which is proved to the satisfaction of the Master to have been paid by any person in respect of the acquisition from the estate of any immovable property which has ranked as part of the estate for the purposes of the assessment of such estate duty, whether such property has been acquired by donation, by testamentary or other inheritance, or by virtue of any disposition by reason of which the property in question has been deemed under this Proclamation to have been portion of the estate.

Set-off of transfer duty.

#### *Part II.—General.*

30. The Master shall not file and administration and distribution account in his office or grant a discharge to any executor until he is satisfied that all duties under this Proclamation have been paid or secured to his satisfaction, or unless he for special reasons has consented to the discharge.

No account to be filed by Master before duty paid or secured.

31. Before delivering or transferring any property of the deceased to any heir or legatee the executor shall satisfy the Master that due provision has been made for the payment of any duty chargeable under this Proclamation.

No property to be delivered by executor before duty provided for.

32. Every executor who pays over or parts with the possession or control of any property under his administration without first paying any duties chargeable under this Proclamation shall become personally and jointly and severally liable with any other person to whom he has paid over, or to whom he has delivered, any such property, for the amount of all duties ascertained by the Master to be payable in respect thereof.

Personal liability of executor.

33. A company shall not permit the transfer—

No transfer of stocks or shares to be registered before duty paid.

(a) of any stocks or shares in such company registered in a deceased person's name; or

(b) of any stocks or shares in such company registered in the name of any person who has been notified to such company by the Master as being a person in whose name stocks or shares belonging to a deceased person are held,

until satisfactory proof has been lodged that payment has been made of any duty chargeable under this Proclamation in respect of such stocks or shares or that the Master for special reasons consents to such transfer.

The person holding the position of secretary of such company shall be responsible for the carrying out of this obligation.

Estate duty and succession duty to be paid before registration of property in Deeds Office.

34. (1) No grant, transfer, endorsement or other act of registration shall be recorded in the deeds registry in connection with any property or interest in property forming part of a deceased estate or which may have been held by a deceased person unless there is produced to the Registrar a certificate issued by the Master that all necessary provision has been made for the payment of any duty chargeable under this Proclamation or any amendment thereof.

(2) No fee shall be chargeable in respect of the issue of any such certificate.

Aggrieved person may submit assessment of duty to High Court.

35. Any person aggrieved by any decision of the Master or Financial Secretary on any question of valuation arising under this Proclamation may demand that the matter be submitted to the High Court of the Bechuanaland Protectorate, and such Court may decide all questions of valuation necessary for determining the proper amount of duty (if any) payable, and may make such order as to costs as may seem fair and reasonable.

Recovery of duty.

36. Any duty, interest, or any other sum whatever due under this Proclamation shall be a debt due to the Government of the Territory and shall be recoverable by action instituted in the name of the Master in any competent court.

Any such action may be instituted against any person liable under any provision of this Proclamation, notwithstanding that the obligation to pay the amount of duty is also imposed by this Proclamation on any other person.

37. (1) The High Commissioner may enter into an agreement with the Government of any other country, whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Territory and of such other country, of death duties in respect of the same property.

Prevention  
of, or relief  
from,  
double  
taxation.

(2) As soon as may be after the conclusion of any such agreement the arrangements thereby made shall be notified by Notice in the *Gazette*, whereupon, until such Notice is revoked by the High Commissioner, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Bechuanaland Protectorate death duties, have effect as if enacted in this Proclamation, but only if and for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of death duties levied or leviable in such other country, have the effect of law in such country.

(3) The High Commissioner may at any time revoke any such Notice by a similar Notice, and the arrangements notified in such earlier Notice shall cease to have effect upon a date fixed in such latter Notice, but the revocation of any Notice shall not affect the validity of anything previously done thereunder.

38. (1) Any person who—

Penalties.

- (a) in relation to any matter dealt with in this Proclamation, makes or causes to be made, or aids or abets in making, or incites any person to make, any fraudulent or false statement or representation knowing it to be fraudulent or false; or
- (b) fails to lodge the affidavit required to be furnished by section *seventeen* or knowingly omits from such affidavit any items required by this Proclamation to be included therein, or knowingly causes or incites any other person to fail to lodge or omit any item from such an affidavit,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or to imprisonment without the option of a fine for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who—

- (a) being the secretary of a company, fails to carry out the obligations imposed on him by section *thirty-three*; or
- (b) makes default in complying with any reasonable requirements of the Master made for the purpose of carrying out any provision of this Proclamation; or
- (c) obstructs or hinders the Master in carrying out any provision of this Proclamation,

shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

Regulations.

39. The High Commissioner may make Regulations, not inconsistent with this Proclamation, for the better carrying out of the objects and purposes thereof, including Regulations for the valuation of usufructuary or other limited interests in property, and for the payment of fees to executors and other persons required to render accounts under this Proclamation or any amendment thereof in respect of property with regard to which no remuneration is payable under the provisions of section *sixty-nine* of the Bechuanaland Protectorate Administration of Estates Proclamation, 1933.

Forms to be prescribed.

40. The Master may prescribe that such forms as seem to him necessary or convenient shall be used in carrying out any provision of this Proclamation or the Regulations made thereunder.

Exemption of native estates administered according to native law and custom.

41. Notwithstanding anything in this Proclamation contained, no duty shall be charged, levied or collected upon or in connection with the estate of any native which is administered in accordance with native law and custom in terms of paragraph (b) of section *three* of the Bechuanaland Protectorate Administration of Estates Proclamation, 1933 (No. 33 of 1933).

Definitions.

42. In this Proclamation and in any Regulations made thereunder, unless inconsistent with the context:—

“ administration and distribution account ” means the account required to be rendered by the executor to the Master in accordance with section *sixty-eight* of the Bechuanaland Protectorate Administration of Estates Proclamation, 1933, or any amendment thereof, in respect of the administration of the estate of which he is executor;

- “ Financial Secretary ” includes any person for the time being acting in that capacity and includes any person acting under the authority of the Financial Secretary;
- “ company ” includes any association which, though incorporated or registered outside the Territory, carries on business or has an office or place of business therein;
- “ duty ” means any duty payable under and in accordance with this Proclamation;
- “ executor ” means any person to whom letters of administration have been granted by the Master for or in respect of the estate of a deceased person under any law relating to the administration of estates, and includes a person acting or authorised to act under letters of administration granted outside the Territory but signed and sealed by the Master for use within the Territory;
- “ Master ” means the Master of the High Court of the Bechuanaland Protectorate, or any person lawfully acting in that capacity;
- “ stocks or shares in any company ” means any part of the share capital of any company and includes also debentures, debenture stock or any other like form of marketable security.

43. Proclamation No. 4 of 1895 is hereby <sup>Repeal.</sup> repealed :

Provided that such repeal shall not affect the liability for any succession duty under such repealed law in respect of successions arising or accruing by reason of the death of any person who died prior to the taking effect of this Proclamation, and the assessment and collection thereof.

44. This Proclamation may be cited as the <sup>Short title and commencement.</sup> Bechuanaland Protectorate Death Duties Proclamation, 1941, 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 Pretoria this Twenty-seventh day of September, One thousand Nine hundred and Forty-one.

HARLECH,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

H. E. PRIESTMAN,  
Administrative Secretary.

FIRST SCHEDULE.

RATES OF ESTATE DUTY.

Upon the first £2,000 of dutiable amount.....	½ per cent.
Upon so much of the dutiable amount as exceeds—	
£2,000 and does not exceed £3,000.....	1 per cent.
£3,000 and does not exceed £7,500.....	2 per cent.
£7,500 and does not exceed £10,000.....	3 per cent.
£10,000 and does not exceed £15,000.....	4 per cent.
£15,000 and does not exceed £20,000.....	5 per cent.
£20,000 and does not exceed £25,000.....	6 per cent.
£25,000 and does not exceed £30,000.....	7 per cent.
£30,000 and does not exceed £35,000.....	8 per cent.
£35,000 and does not exceed £40,000.....	9 per cent.
£40,000 and does not exceed £45,000.....	10 per cent.
£45,000 and does not exceed £50,000.....	11 per cent.
£50,000 and does not exceed £55,000.....	12 per cent.
£55,000 and does not exceed £60,000.....	13 per cent.
£60,000 and does not exceed £65,000.....	14 per cent.
£65,000 and does not exceed £70,000.....	15 per cent.
£70,000 and does not exceed £75,000.....	16 per cent.
£75,000.....	17 per cent.

*Substituted &  
Repealed by  
Proc 26/44*

SECOND SCHEDULE.

RATES OF SUCCESSION DUTY.

<i>Degree of relationship of successor to predecessor.</i>	<i>Rate of duty upon dutiable amount of succession.</i>
(i) Where the successor is the direct descendant or ascendant of the predecessor.....	2 per cent.
(ii) Where the successor is the brother or sister of the predecessor.....	4 per cent.
(iii) Where the successor is the descendant of the brother or sister of the predecessor.....	6 per cent.
(iv) Where the successor is otherwise related to the predecessor or is a stranger in blood or is an institution.....	10 per cent.

Provided that where the successor is married to a person related by blood to the predecessor the rate of duty chargeable shall be determined by the relationship of whichever of the two spouses is more nearly related to the predecessor.