



OFFICIAL GAZETTE

OF THE
HIGH COMMISSIONER FOR BASUTOLAND, THE
BECHUANALAND PROTECTORATE, AND SWAZILAND

PUBLISHED BY AUTHORITY OF HIS EXCELLENCY THE HIGH COMMISSIONER.

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No. 28 of 1936.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is expedient to make provision for the payment of compensation to workmen employed in the Bechuanaland Protectorate who suffer injury or death or contract disease in the course of their employment;

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 may be cited as the Workmen's Compensation Proclamation, 1936, and shall have force and take effect from the date of its publication in the *Gazette*.

2. (1) In this Proclamation, unless the context otherwise requires, the expression "workman", subject to the provisions of section four and the exceptions mentioned in sub-section (2) of this section, means any person who has, either before or after the commencement of this Proclamation entered into or works under a contract of service or apprenticeship with an employer in any employment to which this Proclamation has been applied under sub-section (2) of this section, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing.

(2) The High Commissioner may by notice in the *Gazette* apply this Proclamation to any employment or to any employment in any specified part of the Bechuanaland Protectorate: Provided that this Proclamation shall not apply to—

- (a) any person employed otherwise than by way of manual labour whose wages exceed five hundred pounds a year; or
- (b) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club; or
- (c) an outworker; or
- (d) a member of the employer's family dwelling in his house; or
- (e) any class of persons whom the High Commissioner may by notice in the *Gazette* declare not to be workmen for the purposes of this Proclamation.

(3) If in any proceedings for the recovery of compensation under this Proclamation it appears to the Court that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the Court may, if having regard to all the circumstances of the case it thinks proper so to do, deal with the matter as if the injured person had at the time aforesaid been a person working under a valid contract of service or apprenticeship.

(4) Except for the purposes of section sixteen any reference to a workman who has been injured shall, unless the context otherwise requires, where the workman is dead, include a reference to his legal personal representative, or to his dependants or any of them or the Attorney-General or such other officer as the High Commissioner may appoint to act on behalf of the dependants of the workman.

3. In this Proclamation unless the context otherwise requires—

"compensation" means compensation as provided by this Proclamation;

"Court" means the Court of the District Commissioner of the district in which the injury to the workman occurred;

"dependants" means those members of the family of a workman who were wholly or in part dependent upon his wages at the time of his death, or would, but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such child so dependent upon his wages, or, being an illegitimate child, leaves a parent or grandparent so dependent on his wages, shall include such illegitimate child or parent or grandparent respectively;

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that other person for the provision of the ordinary necessities of life suitable for persons in his class and position;

"district" shall mean a District Commissioner's district of the Bechuanaland Protectorate;

"employer" includes the Resident Commissioner in his capacity as head of the Administration in the Bechuanaland Protectorate and any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Proclamation, be deemed to continue to be the employer of the workman whilst he is working for that other person; in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or members of the managing committee of the club shall, for the purposes of this Proclamation, be deemed to be the employer;

"medical practitioner" means a medical practitioner registered under the Bechuanaland Protectorate Medical, Dental and Pharmacy Proclamation, 1934 (No. 62 of 1934);

"member of the family" means

- (a) when used in relation to a native, the wife or reputed wife of such native and/or such person or persons as the Resident Commissioner, after consultation with the Chief of the Tribe to which the said native belongs, may decide to be a member of the family;
- (b) when used in relation to any person not being a native, the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister;

"mine" shall mean any working made for the purpose of prospecting for or winning minerals;

(3) In the event of the workman being, in the opinion of any medical practitioner, unable or not in a fit state to attend on the medical practitioner named by the employer, that fact shall be notified to the employer, and the medical practitioner so named shall fix a reasonable time and place for a personal examination of the workman and shall send him notice accordingly.

(4) If the workman refuses or wilfully neglects to submit himself to such examination, or in any way wilfully obstructs or unnecessarily delays such examination, his right to compensation shall be suspended until such examination has taken place.

(5) If the workman, before the expiry of the period within which he is liable under sub-section (1) of this section to be required to submit himself for medical examination, voluntarily leaves, without having been so examined, the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(6) The workman shall be entitled to have his own medical practitioner present at such examination, but at his own expense.

(7) Where the workman is not attended by a medical practitioner he shall, if so required by the employer, submit himself for treatment by a medical practitioner without expense to the workman.

(8) If the workman has refused to submit himself for treatment by a medical practitioner when so required under the provisions of sub-section (7) of this section, or having submitted himself for such treatment has disregarded the instructions of such medical practitioner, then if it is thereafter proved that such refusal or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting incapacity shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had submitted himself for treatment by, and duly carried out the instructions of, such medical practitioner, and compensation, if any, shall be payable accordingly.

(9) Where under this section a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

(10) Where a claim for compensation is made in respect of the death of a workman, then if the workman had refused or wilfully neglected to submit himself to examination by a medical practitioner when so required under the provisions of this section, or had wilfully obstructed or unnecessarily delayed such examination, or had refused to submit himself for treatment by a medical practitioner when so required under the provisions of this section or having submitted himself for such treatment had disregarded the instructions of such medical practitioner, and if it is thereafter proved that such refusal, neglect, obstruction, delay or disregard was unreasonable in the circumstances of the case and that the death of the workman was caused thereby, the death shall not be deemed to have resulted from the injury and no compensation shall be payable.

16. (1) The employer and workman may after the injury in respect of which the claim to compensation has arisen agree in writing as to the compensation to be paid by the employer:

Provided that—

(a) the compensation agreed upon shall not be less than the amount payable under section seven, section eight or section nine as the case may be;

(b) where the workman is unable to read and understand writing in the language in which the agreement is expressed the agreement shall not be binding against him unless it is endorsed by a certificate of a District Commissioner to the effect that he read over and explained to the workman the terms thereof and that the workman appeared fully to understand and approve of the agreement.

(2) Where compensation has been agreed the Court may, on application by any party within three months after the date of the agreement, cancel it and make such order (including an order as to any sum already paid under the agreement) as in the circumstances the Court may think just, if it is proved—

(a) that the sum paid or to be paid was or is not in accordance with the provisions of sub-section (1) of this section or was or is otherwise grossly inadequate or excessive;

(b) that the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or

(c) that the agreement was obtained by such fraud, undue influence, misrepresentation or other improper means as would, in law, be sufficient ground for avoiding it.

(3) Any agreement under sub-section (1) of this section may on application to the Court be made a judgment of the Court.

17. (1) If an employer of whom notice of the accident has been served under section thirteen does not within four weeks after the receipt of the notice agree in writing with the workman as to the amount of compensation to be paid, the workman may, in the prescribed form and manner, make an application for enforcing his claim to compensation to the Court having jurisdiction in the district in which the accident giving rise to the claim occurred.

(2) All claims for compensation under this Proclamation and any matter arising out of proceedings thereunder shall be determined by the Court whatever may be the amount involved and the Court may, for that purpose, call upon any Government Medical Officer or any independent medical practitioner to assist the Court.

(3) Every party to an application may appear—

(a) in person; or

(b) by an attorney or law agent; or

(c) by an advocate; or

(d) by a member of his family; or

(e) by a person in the permanent and exclusive employment of such party; or

(f) in the case of a workman, by an officer of a trade union of which such workman is a member; or

(g) in the case of a company, by any director, secretary, or other officer thereof, and in the case of a corporate body which is not a company by an officer thereof; or

(h) by leave of the District Commissioner, by any other person.

No person, other than an advocate, attorney or law agent shall be entitled for so appearing to recover any fee or reward except necessary out-of-pocket disbursements and expenses.

18. (1) Any periodical payment payable under this Proclamation either under agreement between the parties or under an order of the Court, may be reviewed by the Court, on the application either of the employer or of the workman:

Provided that where the application for review is based on a change in the condition of the workman any such application shall be supported by a certificate of a medical practitioner if the services of a medical practitioner are available.

(2) Any periodical payment may, on review under this section, subject to the provisions of this Proclamation, be continued, increased, decreased, converted to a lump sum, or ended. If the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section seven or section eight, as the case may be, less any amount which he has already received by way of periodical payments.

19. Subject to the provisions of sub-section (5) of section nine, an employer shall not be entitled, otherwise than in pursuance of an agreement or an order of the Court, to end or decrease a periodical payment except in the following cases:—

(a) Where a workman resumes work at the rate of wages which he was earning before the accident; or

(b) where a workman in receipt of a periodical payment in respect of total incapacity has actually returned to work; or

(c) where the wages of a workman in receipt of periodical payment in respect of partial incapacity have actually been increased; or

(d) where a workman dies.

20. (1) Save as is provided in this Proclamation the Court shall, upon or in connection with any question to be investigated or determined thereunder, have all the powers and jurisdiction exercisable by a District Commissioner's Court in terms of the Proclamation of the 10th June, 1891, or any amendment thereof, in or in connection with civil actions in such Court and the law, rules and practice relating to such civil actions and to the enforcement of judgments and orders of the Court shall *mutatis mutandis* apply.

(2) Where in any proceedings under this Proclamation on a claim for compensation in respect of the death of a workman, the Court is satisfied that other or sufficient evidence as to the dependency on the deceased workman of a person claiming to be a dependant, residing outside the district in which the proceedings are being taken, or as to the degree of such dependency, cannot be procured, or cannot be procured without undue hardship to the claimant or other party to the proceedings, a statement as to the dependency and as to the degree of dependency of the claimant signed by the District Commissioner of the district in which the claimant resides whether within the Bechuanaland Protectorate or within any other Territory shall be *prima facie* proof of the facts stated therein. The signature of the District Commissioner shall be admitted without proof unless the Court shall have reason to doubt the genuineness thereof.

(3) If in such proceedings any evidence is adduced which in the opinion of the Court traverses the facts set out in such a statement, or if for any other reason the Court thinks fit, the Court may request a Court having jurisdiction in the district in which a person claiming to be a dependant resides, to investigate the fact of the dependency and the degree of the dependency of such person. The record of any such investigation including the finding of the Court thereon shall be receivable as evidence in the proceedings, and a certificate signed by a District Commissioner or an officer of the Court which has conducted the investigation shall be sufficient proof of such record and such signature shall be admitted without proof, unless the Court shall see reason to doubt the genuineness thereof.

(4) Where a request is received by a Court from a Court in another district whether within the Bechuanaland Protectorate or within any other Territory for an investigation of any matter arising out of proceedings for compensation instituted in such other Court under this Proclamation, or, if the other Court is in another Territory, under a law relating to workmen's compensation, the Court shall have jurisdiction

to conduct such investigation, and shall transmit to such other Court the record of such investigation, including its findings thereon, duly certified by the District Commissioner or by an officer of the Court.

(5) For the purpose of this section the expression "Territory" shall include any British Dominion or Colony or British Protectorate in Africa or any territory in Africa in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty.

21. The Court may, if it thinks fit, submit any question of law for the decision of the President of the Special Court whose decision shall be final.

22. (1) Subject to the provisions of this section and sections twelve and twenty-one an appeal shall lie to the Special Court from any order of the Court.

(2) Unless some substantial question of law is involved in the appeal, no appeal shall lie, except with the leave of the Court or of the Special Court, if the amount in dispute in the appeal is less than twenty-five pounds.

(3) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the Court, or in which the order of the Court gives effect to an agreement come to by the parties.

(4) No appeal shall lie after the expiration of thirty days from the date of the order of the Court.

23. (1) Where any person (in this section referred to as the principal) in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Proclamation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Proclamation, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Proclamation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

24. Where the injury in respect of which compensation is payable under this Proclamation was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) the workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Proclamation for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) if the workman has recovered compensation under this Proclamation, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the provisions of section twenty-three of this Proclamation relating to liability in case of workmen employed by contractors, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by Civil Suit.

25. (1) Where the injury was caused by the personal negligence or wilful act of the employer or of some other person for whose act or default the employer is responsible, nothing in this Proclamation shall prevent proceedings to recover damages being instituted against the employer in a Civil Court independently of this Proclamation: Provided that—

(a) a judgment in such proceedings whether for or against the employer shall be a bar to proceedings at the suit of any person by whom, or on whose behalf, such proceedings were taken, in respect of the same injury under this Proclamation.

(b) a judgment in proceedings under this Proclamation whether for or against the employer shall be a bar to proceedings at the suit of any person by whom, or on whose behalf, such proceedings were taken, in respect of the same injury independently of this Proclamation;

(c) an agreement come to between the employer and the workman under the provisions of sub-section (1) of section sixteen shall be a bar to proceedings by the workman in respect of the same injury independently of this Proclamation.

(2) If in proceedings independently of this Proclamation or on appeal, it is determined that the employer is not liable under such proceedings, the Court in which such proceedings are taken or the appellate tribunal may proceed to determine whether compensation under this Proclamation is liable to be paid to the plaintiff and may assess the amount

of compensation so payable, but may deduct from such compensation any extra costs which in the opinion of the Court or appellate tribunal have been incurred by the employer by reason of the proceedings having been taken independently of this Proclamation.

26. (1) The amount of any compensation due to any workman or his dependants by an employer—

(a) at the date of sequestration or assignment of such employer's estate under the law relating to insolvency; or

(b) at the date of the commencement of the winding up under the law relating to companies, if the employer is a company which is being wound up,

shall, notwithstanding anything to the contrary in any other law contained, have priority over all debts whatsoever, other than debts secured by mortgage, tacit hypothec, pledge, or right of retention, and the costs, fees and charges referred to in sections eighty-two, eighty-three and eighty-four of the Bechuanaland Protectorate Insolvency Proclamation, 1929 (No. 25 of 1929), and in the case of the winding up of a Company, all expenditure properly incurred in the winding up, including the remuneration of the liquidator.

(2) When the compensation is in the form of a pension or periodical payment the amount thereof shall, for the purposes of this section, be taken to be the capitalised value of such pension or payment as determined by the Court.

(3) Where any employer has entered into a contract with any insurer in respect of any liability under this Proclamation to any workman, then, in the event of the employer becoming insolvent or assigning his estate or making a composition or arrangement with his creditors, or, if the employer be a company, in the event of the winding up thereof having been commenced, the rights of the employer against the insurer, in respect of that liability shall, notwithstanding anything contained in the law relating to insolvency or assignment or the winding up of companies, be transferred to and vest in the workman and upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if the insurer were the employer; but the insurer's liability to the workman shall not be greater than it would have been to the employer.

(4) If the liability of the insurer to the workman be less than the liability of the employer to the workman the workman may prove for the balance in the insolvency or assignment or winding up.

(5) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

(6) If the workman dies from the injury caused by the accident the rights of, and the liability to, the workman under this section shall be transferred to and vest in the deceased workman's representative.

27. Any contract or agreement whether made before or after the commencement of this Proclamation, whereby a workman relinquishes any right of compensation from an employer for injury arising out of and in the course of his employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Proclamation.

28. Compensation payable under this Proclamation shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against such compensation.

29. Where it shall appear from a certificate granted by a medical practitioner that a workman is suffering from a disease mentioned in the First Schedule to this Proclamation (hereinafter referred to as a scheduled disease) causing incapacity, or where the death of a workman was caused by any such disease and the disease is due to the nature of any work to which the Proclamation applies, and in which the workman was employed at any time within twelve months previous to the date of such certificate or of his death, as the case may be, the workman or his dependants shall be entitled to claim compensation under this Proclamation as if the contracting of such disease were a personal injury caused by accident arising out of and in the course of his work within the meaning of this Proclamation, and the provisions of this Proclamation shall *mutatis mutandis* apply, unless at the time of entering into the employment the workman wilfully and falsely represented to the employer in reply to a specific question that he did not previously suffer from the disease.

30. (1) The compensation shall be recoverable from the employer who last employed the workman during the twelve months referred to in the preceding section in the work to the nature of which the disease was due, unless that employer shall be able to establish that the disease was not contracted while the workman was in his employment.

(2) The workman or his dependants, if so required, shall furnish to the employer from whom compensation is claimed such information as he or they may possess as to the names and addresses of all other employers, who, during the said twelve months, employed the workman in the work to the nature of which the disease is due.

(3) If the employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer and not whilst in his employment, he may cause such other employer to be joined as a party to the application, and if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable.

(4) If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the twelve months employed the workman in the work to the nature of which the disease is due shall be liable to make to the employer from whom compensation is recoverable such contribution as, in default of agreement, may be determined by the Court.

(5) The provisions of sub-section (1) (c) of section five of this Proclamation with regard to the pre-existing diseased condition of the workman shall not apply to a scheduled disease under this Proclamation.

31. (1) The date of the certificate referred to in section twenty-nine or of the death of the workman, as the case may be, shall be treated for the purposes of scheduled diseases as the date of the happening of the accident.

(2) Notice as provided by section thirteen shall be given to the employer who last employed the workman during the twelve months in the work to the nature of which the disease is due.

(3) The wages of the workman shall be his average weekly earnings in the work to the nature of which the disease is due with the employer from whom compensation is recoverable, at the date of the certificate or at the date of his death if there is no previous period of incapacity immediately preceding his death, and, if the workman is not then so employed, the wages shall be the average weekly earnings of the workman when he was last so employed with the employer from whom compensation is recoverable.

32. If the workman at or immediately before the date of his certificate or of his death, as the case may be, was employed in any work mentioned in the First Schedule to this Proclamation and the disease contracted is the disease opposite the description of the work in that Schedule, the disease, unless the certifying medical practitioner certifies that in his opinion it was not due to the nature of the work, shall be deemed to have been due to the nature of that work, unless the employer from whom compensation is claimed proves the contrary.

33. Nothing in this Proclamation contained shall be construed as preventing compensation being recovered from any employer who employed the workman during the twelve months referred to in section twenty-nine, if the employer who last employed the workman during that period is able to establish that the disease was not contracted while the workman was in his employment, in which case the provisions of section thirty shall apply.

34. Nothing in this Proclamation contained shall affect the rights of a workman to recover compensation under the Proclamation in respect of a disease, other than a scheduled disease, if the disease is the result of an accident to such workman.

35. If in any proceedings under this Proclamation for the recovery of compensation by or on behalf of a workman, or his dependants, it shall appear—

- (1) that the injured or deceased workman is, or was a member of a benefit society, sick fund, organisation, or club (hereinafter described as "the society"); and
- (2) that there has been or is to be paid by the society to the workman or his dependants an allowance or gratuity in respect of any illness, absence from work, incapacitation for work, or death; and
- (3) that the employer or principal is a contributor to those funds of the society out of which such allowance or gratuity has been or is to be paid;

there shall be deducted from any amount which the employer or principal would have been adjudged liable under this Proclamation to pay to the workman or his dependants a sum which represents the share of the employer's or principal's contribution towards the sum paid or to be paid to the workman or his dependants from the society in the circumstances aforesaid.

36. The High Commissioner may make rules, and in regard to matters of a nature usually regulated by rules of court, the President of the Special Court may make rules of court—

- (a) prescribing the procedure and forms in respect of matters to be done under this Proclamation;
- (b) for matters which are specifically mentioned in this Proclamation as being matters which may be prescribed; and
- (c) generally for carrying out the objects and provisions of this Proclamation.

37. The Resident Commissioner may carry out an investigation as to whether any disease should be included in the First Schedule as an Industrial Disease, and the High Commissioner may by Notice in the *Gazette* amend that Schedule either by the addition of any disease or the deletion of any disease or otherwise.

38. (1) Where an arrangement has been made whereby sums awarded under the law relating to workmen's compensation in the Bechuanaland Protectorate to beneficiaries resident or becoming resident in the United Kingdom or in any part of His Majesty's dominions, and sums awarded under the law relating to workmen's compensation in the United Kingdom or in such other part of His Majesty's dominions to beneficiaries resident or becoming resident in the Bechuanaland Protectorate, may, at the request of the

authority by which the award is made, be transferred to and administered by a competent authority in the United Kingdom or in such other part of His Majesty's dominions or in the Bechuanaland Protectorate, as the case may be, the High Commissioner may make rules—

- (a) for the transfer, in such manner as may be provided by the arrangement, to the United Kingdom or that part of His Majesty's dominions with which the arrangement is made of any money in the disposition of the Court, applicable for the benefit of any person resident in or about to reside in the United Kingdom or such other part of His Majesty's dominions;
- (b) for the receipt and administration by an officer appointed by the High Commissioner for this purpose of any money which under any such arrangement has been transmitted from the United Kingdom or the part of His Majesty's dominions with which the arrangement has been made as money applicable for the benefit of any person resident or about to reside in the Bechuanaland Protectorate.

(2) For the purposes of this section "His Majesty's dominions" includes British protectorates and protected states and territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty.

39. The Native Labourers Compensation (Bechuanaland Protectorate) Proclamation, 1934 (No. 39 of 1934) and the Workmen's Compensation Proclamation, 1934 (No. 76 of 1934) are hereby repealed.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Seventh day of May One thousand Nine hundred and Thirty-six.

W. H. CLARK,
High Commissioner.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

FIRST SCHEDULE.

Description of Disease.	Description of Work.
Silicosis	In mining carried on underground.
Tuberculosis	In mining carried on underground.
Ankylostomiasis (hookworm)	In mining carried on underground.
Cyanide rash	The handling of cyanide or any work involving the use of cyanide.
Lead poisoning or its sequelae	The handling of lead or its preparations or compounds or any work involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae	Any work involving the use of mercury or its preparations or compounds.

SECOND SCHEDULE.

Injury.	Percentage of Incapacity.
Loss of two limbs	100
Loss of both hands or of all fingers and thumbs...	
Total loss of sight	
Total paralysis	
Injuries resulting in being permanently bed-ridden	100
Any other injury causing permanent total disablement	
Loss of arm at shoulder	60
Loss of arm between elbow and shoulder	50
Loss of arm at elbow	47½
Loss of arm between wrist and elbow	45
Loss of hand at wrist	42½
Loss of four fingers	35
Loss of thumb—both phalanges	17½
Loss of thumb—one phalanx... ..	7
Loss of index finger—	8
three phalanges	
two phalanges	
one phalanx	2
Loss of middle finger—	5
three phalanges... ..	
two phalanges	
one phalanx	1½
Loss of ring finger—	4
three phalanges	
two phalanges	
one phalanx	1
Loss of little finger—	4
three phalanges	
two phalanges	
one phalanx	1

Loss of metacarpals—	
first or second (additional)...	3
third, fourth or fifth (additional) ...	2
Loss of leg—	
at hip ...	70
between knee and hip ...	40 to 70
below knee ...	30 to 42½
Loss of toes—all ...	15
great, both phalanges...	5
one phalanx...	2
Other than great, if more than one toe lost, each	1
Loss of eye—	
eye out ...	30
sight of ...	25
lens of ...	20
sight of, except perception of light ...	22½
Loss of hearing—	
both ears ...	50
one ear ...	7

Total permanent loss of the use of a member shall be treated as a loss of such member. In the case of a right-handed workman, an injury to the left arm or hand and in the case of a left-handed workman, to the right arm or hand shall be rated at ninety per cent. of the above percentages.

(Printed by the Government Printer, Pretoria.)

★ No. 29 of 1936.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is desired to make special provision for the trial before the Special Court of the Bechuanaland Protectorate of the case No. 9 in which Acting Chief Tshekedi Khama is the plaintiff and the High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland is the defendant, and of the case No. 10 in which Chief Bathoen Siepapitso Gaseitsiwe is the plaintiff and the High Commissioner for Basutoland, the Bechuanaland Protectorate, and Swaziland is the defendant, the two cases being hereinafter referred to as the "said cases";

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

1. Notwithstanding anything to the contrary contained in the Bechuanaland Protectorate Special Court Proclamation, 1912 (No. 40 of 1912), as amended (hereinafter referred to as the principal law) the said Special Court shall have jurisdiction to hear and determine the said cases and in addition to any other jurisdiction conferred by any Order-in-Council or by the principal law or by any other Proclamation shall for the purposes of the trial possess and exercise in the Bechuanaland Protectorate all the jurisdiction power and authorities possessed and exercised in the Union of South Africa by the Supreme Court of South Africa.

2. The said Special Court for the purposes of hearing and determining the said cases shall consist of a Judge of the Supreme Court of South Africa, or an Advocate duly admitted to practice in such Supreme Court, appointed by the High Commissioner and sitting alone, anything contained in the aforesaid principal law notwithstanding.

3. This Proclamation shall be deemed to have had force and effect as from the 27th day of November, 1935.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Seventh day of May One thousand Nine hundred and Thirty-six.

W. H. CLARK,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

No. 30 of 1936.

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is expedient to make provision for the punishment of certain offences committed by subordinate officials of the Government in the Bechuanaland Protectorate by means of departmental fines;

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

1. If any subordinate official of the Government—

(a) wilfully contravenes any regulation or instruction in force in the department in which he is serving; or

- (b) disobeys or neglects to obey any lawful order of an officer in authority over him; or
- (c) is grossly impertinent or disrespectful to any officer in authority over him; or
- (d) is intoxicated while on duty; or
- (e) in general conducts himself, or acts in a manner calculated to prejudice the work of the department in which he is serving or unnecessarily to interfere with the work of another department;

he may, after due investigation by the Administrative Office in charge of the district or sub-district in which he is serving or by the Head of the Department in which he is serving, be fined by such Administrative Officer or Head of Department a sum not exceeding one quarter of a month's pay: Provide that in no case shall the aggregate amount of fines inflicted in any one month exceed one quarter of a month's pay.

2. A fine imposed under section one may be enforced by deduction from the offender's pay.

3. Whenever a fine is imposed under the provisions of this Proclamation the officer imposing such fine shall immediately make a report to the Resident Commissioner stating the reasons why such fine has been imposed and the amount of same, and such report shall operate as an appeal against the fine inflicted, and the Resident Commissioner may, after calling for such information, if any, as he may require, cancel or reduce any fine and order the refund of the whole or part of the same.

4. Nothing in this Proclamation contained shall be taken as relieving any person from any of the consequences of an act or omission punishable both under this Proclamation and any other law: Provided that no person shall be punished twice for the same offence; provided also that where the Resident Commissioner shall have remitted the penalty imposed under this Proclamation in order that proceedings may be taken against such person in a court of law, such person shall not be deemed to have been punished for, or to have expiated, such offence.

5. In this Proclamation the term "subordinate official of the Government" means a person serving the Government in any capacity whose salary is less than two hundred pounds per annum.

6. This Proclamation may be cited for all purposes as the Departmental Offences (Bechuanaland Protectorate) Proclamation, 1936, 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 Seventh day of May One thousand Nine hundred and Thirty-six.

W. H. CLARK,
High Commissioner.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 79 of 1936.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to appoint Nelson Luyt Smyth, Esquire, Postal Assistant, to the pensionable establishment of the Basutoland Service, with effect from the 1st October, 1931.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

High Commissioner's Office,
Capetown, 6th May, 1936.

HIGH COMMISSIONER'S NOTICE No. 80 of 1936.

It is hereby notified for general information that, under the powers vested in him by sub-section (2) of section two of the Workmen's Compensation Proclamation, 1936 (No. 2 of 1936), His Excellency the High Commissioner has been pleased to apply the aforesaid Proclamation to the following employment throughout the Bechuanaland Protectorate:—

Employment at or about a "Mine" as defined by the said Proclamation.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

High Commissioner's Office,
Capetown, 15th May, 1936.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 81 of 1936.

It is hereby notified for general information that, under and by virtue of the powers in him vested by section *sixty-five* of the Swaziland Roads and Outspans Proclamation, 1931, His Excellency the High Commissioner has been pleased to cancel the First Schedule to the Regulations issued under High Commissioner's Notice No. 121 of 1931, and to substitute the following:—

FIRST SCHEDULE.

CONDITIONS OF WORKING AND TARIFF OF CHARGES AUTHORIZED TO BE TAKEN FROM THE GENERAL PUBLIC AT PUBLIC FERRIES CONTROLLED BY THE ADMINISTRATION.

1. When return journeys are made within 24 hours of crossing and the receipt for the original crossing is handed to the custodian, only half tariff rates for the return journey shall be charged.

2. Double the ordinary tariff charges shall be charged in respect of crossings between the hours of sunset and sunrise.

3. Passengers are crossed at their own personal risk.

4. Vehicles, animals and goods are crossed at owner's risk.

Wagons, including animals in span	£0	2	0
Carts or other vehicles, including animals drawing same	0	1	0
Motor vehicles, other than motor-cycles	0	2	0
Motor-cycles	0	1	0
Cattle, horses, mules and donkeys (per head)	0	0	3
Sheep, goats and pigs, per 100 or part of 100	0	1	0

Season Tickets of Twelve Months.

Wagons and motor vehicles (other than motor-cycles)	2	0	0
Carts or other vehicles and motor-cycles	1	0	0

Free Crossings.

The following shall be permitted to use Public Ferries free of charge:—

- Government owned vehicles or vehicles driven by Government officials on Government duty.
- Vehicles of Ministers of Religion (including Missionaries) upon production of a "Free Crossing Permit" issued by the Resident Commissioner.
- All persons whether travelling by vehicle or on foot.
- Cycles, not self-propelled.
- Railway Motor Transport and goods conveyed by Railway buses.
- Native owned vehicles, such to include motor vehicles only when registered in Swaziland.
- Vehicles of officials of a neighbouring territory when travelling on duty for the Swaziland Administration.
- Vehicles of members of the Swaziland European Advisory Council in the course of their duties.

Vehicles used by contractors for the transport of passengers on Government duty or Government goods shall be charged according to the tariff.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

High Commissioner's Office,
Capetown, 7th May, 1936.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 82 of 1936.

With reference to the Immigration Regulations published under High Commissioner's Notice No. 102 of 1933, it is hereby notified for general information that, under the powers conferred upon him by section *seventeen* of the Immigration Regulation (Bechuanaland Protectorate) Proclamation, 1932 (No. 34 of 1932), His Excellency the High Commissioner has been pleased to make the following additional regulation.

By Command of His Excellency the
High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

High Commissioner's Office,
Capetown, 9th May, 1936.

13. (6) The certificate of residence which may be issued to persons, not being prohibited immigrants, under sub-section (2) (b) of section *eleven* of the principal law, as amended by Proclamation No. 25 of 1936, shall be in the form set out in

Annexure Four (b) to the Regulations, and shall entitle the holder to reside in the Territory for the period stated in the said certificate.

ANNEXURE FOUR (B).

CERTIFICATE OF RESIDENCE.

Subject to the conditions and requirements stated hereunder.....

is permitted to reside in the Bechuanaland Protectorate for a period of.....from..... to.....

CONDITIONS AND REQUIREMENTS.

This certificate is issued subject to the provisions of the Immigration Regulation (Bechuanaland Protectorate) Proclamation, 1932 (No. 34 of 1932), as amended by Proclamation No. 25 of 1936, and the regulations thereunder.

This certificate is valid until the expiry of the period for which it is granted or until cancelled by the Resident Commissioner.

Chief Immigration Officer.

Date.....

(Printed by the Government Printer, Pretoria.)

The following animal will be sold by public auction on Wednesday, the 3rd June, 1936, at 1 o'clock, unless previously claimed.

1 Red ox, branded R 7.

C. R. DELPORT,
Poundmaster, Hluti.

NOTICE.

In the Estate of the late GEORGE CARL LOOCK, of Maseru, Basutoland.

The First and Final Liquidation and Distribution Account in the above Estate will lie for inspection at the Office of the Master of Court, Maseru, for a period of twenty-one days from the 12th May, 1936.

J. P. JONES,
Executor. 13

Maseru, 8th May, 1936.

NOTICE.

In the Estate of the late GEORGE GUY HORN LOOCK, blacksmith, residing at Motsekuoa, District Mafeteng, Basutoland.

Creditors and Debtors in the above Estate are hereby required to file their claims and pay their debts to the undersigned within thirty days of publication hereof.

MARGARET MATILDA KEARNEY,
Co-Executrix Assumptive.

Rietvlei, P.O. Mafeteng, Basutoland. 15

SWAZILAND.

THE TRADE MARKS OFFICE.

APPLICATION FOR THE REGISTRATION OF A TRADE MARK.

Any person who has grounds of objection to the following mark may, within one month after the last publication of this notice, lodge notice of opposition in the Form B-2nd Schedule of the Trade Marks Rules, 1902.

J. R. ARMSTRONG,
Registrar of Trade Marks.

No. 7 of 1936, in Class 47, in respect of candles, common soap, detergents, illuminating, heating or lubricating oils, matches, and starch, blue and other preparations for laundry purposes, in the name of The Shell Company of South Africa, Limited, of St. Helen's Court, Great St. Helen's, London, England, Merchants, who claim to be the proprietors thereof.

No. 7/1936.

SILVER SHELL

15-22-29

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GOVERNMENT GAZETTE

OF THE

Union of South Africa.

(Published on Fridays.)

SUBSCRIPTION RATES.

The subscription rates to the *Union Gazette* (including *Official Gazette of the High Commissioner, Gazettes Extraordinary, and Supplements, with Quarterly Index*) are as follows:—

£1 for six months (post free).
£2 for twelve months (post free).
Price per single copy, 6d.

Subscriptions are payable in advance to the Government Printer, Pretoria, and may commence from the 1st of any month, but cannot be accepted for a shorter period than six months.

ADVERTISEMENTS.

Rates of advertising are as follows:—

5s. per inch single column; repeats 3s.
10s. per inch double column; repeats 6s.
15s. per inch treble column; repeats 9s.

In order to arrive at the approximate space which an advertisement will occupy, advertisers should count the words in the body of the advertisement, and reckon—

For single column, 6 words to the line;
For double column, 14 words to the line;
For treble column, 21 words to the line;
and 8 lines to the inch.

In each case an additional half-inch at top and bottom should be allowed for heading and signature respectively.
Fractions of an inch to be reckoned an inch.

Notices to Creditors and Debtors in the Estates of Deceased Persons and Notices by Executors concerning Liquidation Accounts lying for inspection are published in schedule form at 8s. per Estate.

A fixed charge of 12s. per Estate is made for publishing notices in the schedule forms prescribed in the Regulations made under the Insolvency Act, 1916.

In the case of forms 3 and 4, advertisers should count the words in the advertisement and reckon: 12s. for the first 36 words (or portion thereof) and 2s. for every additional 12 words (or portion thereof).

Notices of acceptance of complete specifications in respect of Applications for letters Patent are inserted in three consecutive issues for 10s.

Applications for Naturalization are inserted for 13s. (which includes a copy of the *Gazette*).

Only Legal Advertisements are accepted for publication in the *Gazette*, and are subject to the approval of the Government Printer, who can refuse to accept or decline further publication of any advertisement.

The Government Printer reserves to himself the right to edit "copy".

No responsibility can be accepted for losses arising from omissions or typographical errors.

Manuscript of advertisements should be written on one side of the paper only, and **all proper names plainly inscribed**; in the event of any name being incorrectly printed as a result of indistinct writing, the advertisement can be republished only on payment of the cost of another insertion.

No Advertisement can be inserted unless it is Prepaid.

All cheques, bank drafts, postal orders, or money orders must be made payable to the Government Printer, Pretoria, and crossed "South African Reserve Bank". *Cheques will only be accepted when initialed by the Bank.*

J. J. KRUGER,
Government Printer.

STAATS- KOERANT

VAN DIE

Unie van Suid-Afrika.

(Verskyn elke Vrydag.)

INTEKENGELD.

Die intekengeld vir die *Unie-Staatskoerant* (insluitende die *Offisiële Koerant van die Hoë Kommissaris, Buitengewone Staatskoerante en Supplemente, met Kwartaal-indeks*) is as volg:—

£1 per ses maande (posvry).
£2 per twaalf maande (posvry).
Prys per los eksemplaar, 6d.

Intekengelde moet vooruitbetaal word aan die Staatsdrukker, Pretoria, and mag begin vanaf die 1ste van enige maand, maar kan nie aangeneem word vir 'n korter tydperk as ses maande nie.

ADVERTENSIES.

Die advertensietarief is as volg:—

5s. per duim, enkele kolom; herhaling 3s.
10s. per duim, dubbele kolom; herhalings 6s.
15s. per duim, driedubbele kolom; herhalings 9s.

Om die ruimte wat 'n advertensie sal beslaan, by benadering te bereken, moet adverteerders die woorde in die advertensie tel en reken—

Vir enkele kolom, 6 woorde per reël;
Vir dubbele kolom, 14 woorde per reël;
Vir driedubbele kolom, 21 woorde per reël;
en 8 reëls per duim.

In elke geval moet 'n ekstra half-duim aan die bo- en onderkant bereken word vir die titel en ondertekening respektiewelik. **Gedeeltes van 'n duim moet as een volle duim gereken word.**

Kennisgewings aan Krediteure en Debiteure in die Boedels van Oorlede Persone en Kennisgewings van Eksekuteurs betreffende Likwidasierekenings wat ter insae lê, word gepubliseer in skedulevorm teen 8s. per Boedel.

'n Vaste bedrag van 12s. per Boedel word bereken vir die publikasie in skedulevorm van kennisgewings voorgeskree deur die Regulasies opgestel volgens die Insolvensiewet, 1916.

In die geval van vorms 3 en 4, moet adverteerders die woorde in die advertensies tel en reken: 12s. vir die eerste 36 woorde (of gedeelte daarvan) en 2s. vir elke addisionele 12 woorde (of gedeelte daarvan).

Kennisgewings van aanneming van volledige spesifikasies met betrekking tot aansoeke om Oktrooibriewe word vir 10s in drie agtereenvolgende uitgawes geplaas.

Aansoeke om Naturalisasie word vir 13s. geplaas, watter bedrag 'n eksemplaar van die *Staatskoerant* insluit.

Alleen wetlike advertensies word vir publikasie in die *Staatskoerant* aangeneem en is onderworpe aan die goedkeuring van die Staatsdrukker, wat kan weier om advertensies aan te neem of verder te publiseer.

Die Staatsdrukker behou hom die reg voor om kopie te redigeer.

Geen verantwoordelikheid kan aanvaar word vir verliese wat deur uitlatinge of tipografiese of ander foute ontstaan nie.

Die manuskrip van advertensies moet alleen op een sy van die papier geskrywe word, **en alle eisname moet duidelik geskrywe word**; ingeval enige naam verkeerd gedruk word ten gevolge van onduidelike skrif, kan die advertensie alleen weer gepubliseer word teen betaling van die koste van 'n tweede plasing.

Geen advertensie kan geplaas word nie tensy dit vooruitbetaal is.

Alle tjeks, bankwissels, posorders of poswissels moet uitgemaak word op naam van die Staatsdrukker, Pretoria, en gekruis wees „Suid-Afrikaanse Reserwebank”. **Alleen tjeks wat deur die Bank geparafeer is, sal aangeneem word.**

J. J. KRUGER,
Staatsdrukker.