PROCLAMATION.[1]

BY

HIS EXCELLENCY SIR HENRY BROUGHAM LOCH, &c., &c.

No. 4, 1895.—DATED 2nd MARCH, 1895.

Preamble.

WHEREAS it is expedient to impose in the territory known as the Bechuanaland Protectorate certain duties on succession to property.

Now, therefore, under and by virtue of the powers, authorities, and jurisdiction conferred upon and committed to me by Her Majesty, I do hereby proclaim, declare, and make known as follows:—

Limits of Proclamation.

1. The operation of this Proclamation is limited to the Bechuanaland Protectorate.

Interpretation of terms.

2. Every past or future disposition of property by reason whereof any person has or shall become entitled to any property not being immovable property out of the Protectorate, or the income thereof, upon the death of any person dying after the taking effect of this Proclamation either immediately or after any interval, either certainly or contingently, and either directly or by way of substitutive limitation, and every devolution by

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[1] Printed as amended by Proclamation No. 23 of 1914.

law of any beneficial interest in property or the income thereof upon the death of any person dying after the taking effect of this Proclamation, to any person, in possession or expectancy, shall be deemed to have conferred or to confer on the person entitled, by reason of any such disposition or devolution, "a succession," and the term "successor" shall denote the person so entitled, and the term "predecessor" shall denote the testator, intestate, ancestor, or other person from whom the interest of the successor is or shall be derived.

Rates of duties to be levied.

3. There shall be levied and paid into the Public Treasury in respect of every succession as aforesaid, according to the net value thereof, the following duties, that is to say:

(1) Where the successor shall be the lineal descendant or the lineal ancestor of the predecessor, a duty of one pound per centum upon such value.

(2) Where the successor shall be a brother or sister of the predecessor, a duty at the rate of two pounds per centum upon such value.

(3) Where the successor shall be a descendant of a brother or sister of the predecessor, a duty at the rate of three pounds per centum upon such value.

(4) Where the successor shall be in any degree of consanguinity to the predecessor other than is hereinbefore described, or shall be a stranger in blood to him, a duty of five pounds per centum upon such value.

Exemptions.

4. From the duties aforesaid, imposed by this Proclamation, the following estates and persons shall be exempt, that is to say:

(1) Where the whole succession or successions derived from the same predecessor, and passing upon any death to any person or persons shall not amount in money or other property to the sum of one hundred pounds, no duty shall be payable under this Proclamation in respect thereof or of any portion thereof.

(2) Where the successor shall be a son or daughter of the predecessor, no such duty as aforesaid shall be payable by such successor in case the net amount or value of the succession of such successor do not amount to the sum of one hundred pounds.

(3) No successor whatever shall be liable to pay duty upon any succession which shall be of less value than twenty pounds.

(4) Every surviving spouse being a successor of his or her deceased spouse, shall be exempt from the payment of any duty upon such succession.

Duty chargeable on donations.

5. As often as a donation *mortis causa* shall be made, there shall be payable by the donee the same duty upon the net amount or value of the donation as such donee would have paid under this Proclamation, in case the donor had been a predecessor, and such donee had been a successor under this Proclamation.

Master to collect duties.

6. The duties by this Proclamation imposed shall be under the care and management of the Master of the Court of Resident Commissioner, who shall be entitled to collect and recover the same.

Duties may be paid to Assistant Commissioner of Magistrate.

7. It shall be lawful for any person liable to the payment of duty under this Proclamation, to pay such duty as assessed by the said Master, to the

Assistant Commissioner, or Magistrate exercising jurisdiction at the place where such person shall reside, whose receipt for such duty, when transmitted to and received by the said Master, shall be a sufficient discharge for such duty.

Master may call upon executors for accounts.

Declaration may be substituted for account.

8. It shall be lawful for the said Master to call upon all executors, whether testamentary or dative, and all trustees, tutors and curators, for a full and true account of all property in regard to which duty shall be payable under this Proclamation, excluding immovable property not actually in the Protectorate, and which property shall have been received or disposed of by them in their said capacities, and of the value of such property, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the said Master to ascertain the duties payable: Provided that if any executor shall, by last will, or codicil to a last will, have been directed not to file such an account, it shall be lawful for such executor to make a solemn declaration of the amount upon which such succession duty shall be due and payable under this Proclamation; and it shall be lawful for the said Master, if dissatisfied with the value placed by any successor, or by any person acting for or representing him, upon his succession, or if such successor shall fail to place any value thereupon, to cause the value thereof to be appraised by any person or persons appointed by such Master, for the purpose, and to assess the duty upon the footing of the value as ascertained by such appraisement, together with reasonable expenses of such valuation, subject to appeal as hereinafter provided. But in case such valuation shall not exceed the value of such succession put upon the same by such successor to the extent of one-sixth of the value thereof, the duty shall be paid upon the valuation put upon the same by such successor or by any person acting for or representing him, and the expense of the valuation shall be borne by Government.

Duty may be deducted from succession if not successor liable.

9. It shall be lawful for every executor, whether testamentary or dative, and he is hereby required to deduct from the succession of every successor in the estate under the administration of such executor the amount of succession duty payable by such successor: Provided that as often as any such succession duty shall not have been so deducted, the successor entitled to such succesion shall be liable for the same.

Persons dissatisfied with Master's decision may appeal to the Resident Commissioner.

10. It shall be lawful for any person liable for any duty under this Proclamation, and who shall be dissatisfied with the assessment made by the said Master of the duty payable under this Proclamation, to give notice to the said Master at any time within thirty-one days after he shall have had notice from the said Master of such assessment, that he intends to appeal against such assessment, and to give at the same time a statement of the grounds of such appeal, and thereupon such person may appeal by petition to the Court of Resident Commissioner, and such Court shall have jurisdiction to hear and determine the matter of such appeal and the costs thereof, with power to direct for the purposes of such appeal, any enquiry, valuation, or report to be made, by any Assistant Commissioner, Magistrate or other person, as such Court shall think fit.

Annuities, how value for duty.

11. As often as any succession shall be an annuity, then the value of such annuity shall be calculated according to the tables contained in the Schedule to the Act of Imperial Parliament called "The Succession Duty Act, 1853."

Sections 8 to 11 to apply to Donations.

12. The provisions of the eighth, ninth, tenth and eleventh sections of this Proclamation shall extend and apply to donations *mortis causa* in like manner as if the same had been successions under this Proclamation.

No allowance to be made for contingent incumbrances.

13. In estimating the value of a succession, no allowance shall be made in respect of any contingent incumbrance thereon; but in the event of such an incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of duty paid by him in respect of the amount or value of the incumbrance when taking effect.

Contingent successions.

14. In estimating the value of a succession, no allowance shall be made in respect of any contingency upon the happening of which the property may pass to some other person; but in the event of the same so passing, the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest.

Duty chargeable on value of succession actually obtained.

Duty paid in error may be refunded.

15. Where a successor shall not have obtained the whole of his succession in the time of the duty becoming payable, he shall be chargeable only with duty on the value of the property or benefit from time to time obtained by him; and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved to the satisfaction of the Master of the said Court that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of property which the successor shall have been unable to recover, or from which he shall have been evicted, or of which he shall have been deprived by any superior title, or that for any other reason such duty ought to be refunded, the Master of the said Court, being thereto authorized by the High Commissioner, shall thereupon refund the same to the person entitled thereto.

When interest of successor shall have ceased by reason of death.

16. Where the interest of any successor in any property shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such interest, and shall be due from the successor who shall first become entitled thereto in posession; but such duty shall be at the highest rate which, if every such successor had been subject to duty, would have been payable by any of them.

Duty chargeable on property bequeathed for charitable purposes.

Exemption.

17. Where property shall become subject to a trust for any charitable or public purposes, under any past or future disposition, which, if made in favour of an individual, would confer on him a succession, there shall be payable in respect of such property, upon its becoming subject to such trust, a duty at the rate of five pounds per centum upon the amount of principal value of such property; and it shall be lawful for the trustee of any such property to raise the amount of any duty due in respect thereof, with all reasonable expenses, upon the security of the property, at interest, and to give an effectual discharge for the money so raised: Provided, however, that this clause shall not extend to charitable institutions, namely, hospitals for the blind, deaf and dumb, lunatics, lepers, chronic sick, aged and poor.

Proclamation not to apply to native successions.

18. Nothing in this Proclamation contained shall apply to the property of any deceased native who at the time of his death belonged to any native tribe, community, or people so far as such property shall be administered and distributed according to the laws, customs, or usages of the tribe, community, or people to which the deceased belonged.

Commencement of Proclamation.

19. This Proclamation shall come into force and take effect on and after the first day of April, 1895.
