

PROCLAMATION.

BY

HIS EXCELLENCY THE HIGH COMMISSIONER FOR SOUTH AFRICA.

No. 5, 1902.—DATED 8th JULY, 1902.

Preamble.

WHEREAS it is expedient to make provision for the relief of wives and families deserted and left destitute within the Bechuanaland Protectorate:

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

Applying Cape Act No. 7 of 1895.

1. The provisions of the Deserted Wives and Children Protection Act, No. 7 of 1895, of the Cape Colony shall, *mutatis mutandis*, be and the same are hereby declared to be in force in the territory of the Bechuanaland Protectorate, so far as applicable: Provided always that in the said Act the words "Assistant Commissioner, Resident Magistrate or Assistant Resident Magistrate"¹ shall be substituted for the words "Resident Magistrate" wherever the same occur in the said Act and that in the Sixth Section of the said Act the words, "Resident Commissioner's Court" shall be substituted for the words "Supreme Court, Eastern Districts Court, High Court of Griqualand West, or any Circuit Court, as the case may be."

ANNEXURE.²

Act No. 7 of 1895.

For the Prevention of Destitution, and to make Provision for the Relief of Wives and Families Deserted and left Destitute.

Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

1. Every person being able wholly or in part to maintain himself or herself, or his or her family, by work or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she or any of his or her family whom he or she may be legally bound to maintain shall have become destitute, shall be deemed to be an idle and disorderly person, and upon conviction thereof before any Resident Magistrate, shall be liable to a fine not exceeding fifteen pounds, or failing payment of such fine to be imprisoned with or without hard labour for any period not exceeding three months.

2. When any husband unlawfully deserts his wife or leaves her without means of support, or when a father deserts any child, being under fifteen years of age or leaves it without any adequate means of support, if complaint thereof be made on oath to the Resident Magistrate of the district in which such wife or such child shall respectively reside, by the wife or by any reputable person on her behalf, or in case of the child, by the mother or any reputable person, such Resident Magistrate may issue his summons to such husband or father to show cause why he should not support his wife or child; and in cases of desertion, where such husband or father is absent from the Colony, the Resident Magistrate may direct service of the summons to be made by publication thereof in the *Gazette* or in some newspaper.

¹ Printed as amended by Proclamation No. 42 of 1922.

² See Section 10 of Proclamation No. 76 of 1921.

circulating at any place in South Africa where such Magistrate shall have reason to suppose that such husband or father resides or is.

3. Upon the day appointed for the hearing and upon proof of the service of the summons, whether the defendant be then present or not, such Resident Magistrate shall inquire into the matter of the complaint; and if he be satisfied that the wife or child, as the case may be, is in fact without means of support, and that the husband or the father is able to maintain her or it or to contribute to her and its maintenance, such Resident Magistrate shall make an order, in writing, directing him to pay either weekly or monthly at the Magistrate's discretion and to such person or in such manner for her or its use as such Magistrate may think fit, such moderate sum or allowance as he shall consider proper; and such an order shall have the effect of an ordinary judgment of the said court.

4. It shall be competent for any husband or father, as the case may be, against whom judgment shall have been given during his absence from the Colony, within two months after his return to the Colony, and having notice of such judgment to take out the summons of the court calling upon the complainant in the original suit to show cause why the order or authority as aforesaid shall not be cancelled, and if, upon such re-hearing he shall prove to the satisfaction of the court that he did not absent himself from the Colony for the purpose of avoiding the service of the summons, the case shall be re-opened and proceed as if he had appeared upon the original summons.

5. Any order made by any Resident Magistrate under this Act may be duly certified without fee by such Magistrate under his hand and transmitted to any other Resident Magistrate in whose district the defendant may at any time or from time to time reside or be, and shall on receipt be endorsed by such last-mentioned Resident Magistrate and shall thereupon be put into force and have such effect as though it had originally been pronounced by him, subject always to the provisions of section four.

6. Any sentence passed or order made by any Resident Magistrate, in terms of this Act, shall be subject to appeal to the Supreme Court, Eastern Districts Court, High Court of Griqualand West, or any Circuit Court, as the case may be.

7. All and singular the rules of the Resident Magistrate's Courts in regard to any sale in execution of the ordinary process of such courts, or in regard to appeals from such courts, shall apply *mutatis mutandis* to any sale directed or appeal prosecuted in pursuance of this Act.

8. Whenever the Governor shall be advised that in any other Colony, State, or Territory in South Africa there is a law in force recognising the orders of a Resident Magistrate under this Act duly certified under his hand and providing for their enforcement against the defendant in the jurisdiction of such Colony, State, or Territory, it shall be lawful for the Governor to proclaim corresponding and reciprocal regulations providing for the recognition and enforcement in this Colony, of orders made in such Colony, State, or Territory under any law similar to this Act.

9. This Act may be cited as "The Deserted Wives and Children Protection Act."
