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No. 69
1914

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

No. 69 of 1914.

WHEREAS a state of war has existed between His Majesty the King and the German Empire as from 11 p.m. on 4th August, 1914, and a state of war has existed between His Majesty the King and the Dual Monarchy of Austria-Hungary as from midnight on 12th August, 1914;

And whereas on the seventeenth day of August 1914 a proclamation was issued by the High Commissioner warning all persons resident carrying on business or being in the Bechuanaland Protectorate (herein after referred to as "the territory") against trading or having commercial intercourse with the enemy;

And whereas it is expedient to make further provision prohibiting persons resident carrying on business or being in the territory from trading or having commercial intercourse with persons residing or carrying on business in the territories of the German Empire or of the Dual Monarchy or in any colony or dependency of such Empire or Monarchy without such licence as is herein aftermentioned;

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

1. High Commissioner's Proclamation No. 55 of 1914 dated the seventeenth day of August 1914 shall be and is hereby repealed.

2. The expression "enemy country" in this Proclamation means the territories of the German Empire and of the Dual Monarchy of Austria-Hungary, together with all the colonies and dependencies thereof.

3. The expression "enemy" in this Proclamation means any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies, enemy character attaches only to those incorporated in an enemy country.

4. The expression "outbreak of war" in this Proclamation means eleven p.m. on the 4th August 1914 in relation to the German Empire, its colonies and dependencies, and midnight on the 12th August 1914 in relation to Austria-Hungary, its colonies and dependencies.

5. From and after the date of this Proclamation the following prohibitions shall have effect (save so far as licences may be issued as herein after provided), and I do hereby accordingly warn all persons resident, carrying on business or being in the territory—

- (i) not to pay any sums of money to or for the benefit of an enemy;
- (ii) not to compromise or give security for the payment of any debt or other sum of money with or for the benefit of an enemy;
- (iii) not to act on behalf of an enemy in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with any negotiable instrument;
- (iv) not to accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of an enemy, provided that this prohibition shall not be deemed to be infringed by any person who has no reasonable ground for believing that the instrument is held by or on behalf of an enemy;
- (v) not to enter into any new transaction, or complete any transaction already entered into with an enemy in any stocks, shares, or other securities;
- (vi) not to make or enter into any new marine, life, fire or other policy or contract of insurance (including reinsurance) with or for the benefit of an enemy; not to accept, or give effect to any insurance of, any risk arising under any policy or contract of insurance (including reinsurance) made or entered into with or for the benefit of an enemy before the outbreak of war; and in particular as regards treaties or contracts of reinsurance current at the

outbreak of war to which an enemy is a party or in which an enemy is interested; not to cede to the enemy or to accept from the enemy under any such treaty or contract any risk arising under any policy or contract of insurance (including reinsurance) made or entered into after the outbreak of war, or any share in any such risk;

- (vii) not directly or indirectly to supply to or for the use or benefit of, or obtain from, an enemy country or an enemy, any goods, wares or merchandise, nor directly or indirectly to supply to or for the use or benefit of, or obtain from any person any goods, wares or merchandise, for or by way of transmission to or from an enemy country or an enemy, nor directly or indirectly to trade in or carry any goods wares or merchandise destined for or coming from an enemy country or an enemy;
- (viii) not to permit any British ship to leave for, enter or communicate with, any port or place in any enemy country;
- (ix) not to enter into any commercial, financial or other contract or obligation with or for the benefit of an enemy.

Provided always that where an enemy has a branch locally situated in British, allied, or neutral territory not being in Europe, transactions by or with such a branch not being in respect of the business of insurance or reinsurance shall not be treated as transactions by or with an enemy.

6. (1) Any person resident carrying on business or being in the territory who during the present war trades or has since the outbreak of war traded with the enemy or who during the present war aids or abets or has since the outbreak of war aided or abetted trading with the enemy shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding five years or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and shall in addition to any other penalty be liable to forfeiture of any goods or money obtained by him as the result of such trading.

(2) For the purpose of this section "trading with the enemy" shall include any act or transaction prohibited by or under this or any other Proclamation issued by the High Commissioner dealing with such trading or constituting the offence of trading with the enemy at common law.

(3) (Repealed by Section 1 of Proclamation 35 of 1915, *quod vide*).

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(4) No prosecution for an offence against this Proclamation shall be instituted except by the Crown Prosecutor of the territory.

(5) A person who has been punished once whether under this Proclamation or under any other law for an act which is an offence against this Proclamation shall not be liable to any further punishment for such act.

7. (1) In cases where there is reason to suspect or anticipate that any person firm or company has committed or will commit an offence against this Proclamation an Assistant Commissioner or Magistrate may on information on oath laid on behalf of the Crown Prosecutor of the territory authorize by warrant the person named in the warrant—

- (a) to inspect books or documents belonging to or under the control of such person firm or company;
- (b) to require any person able to give information respecting the business or trade of such person firm or company to give such information;
- (c) if accompanied by a constable to search any premises used in connection with the business or trade of such person firm or company.

(2) In cases of urgency the Crown Prosecutor may by written order give the like authority without warrant.

(3) Any person who refuses or neglects to produce books or documents or to give information when required to do so under this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months, or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

8. Where it appears to the Resident Commissioner in reference to any firm or company—

- (a) that an offence under this Proclamation has been or is likely to be committed in connection with the trade or business thereof; or
- (b) that the control or management thereof has been or is likely to be so affected by the state of war as to prejudice the effective continuance of its trade or business and that it is in the public interest that the trade or business should continue to be carried on,

the Resident Commissioner may apply to the Special Court for the appointment of a Controller of the firm or company and the Special Court shall have power to appoint such a Controller for such time and subject to such conditions and with such powers as the Court may think fit and the powers so conferred

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shall be either those of a receiver and manager, or those powers subject to such modifications, restrictions or extensions as the Court thinks fit including, if the Court considers it necessary or expedient for enabling the Controller to borrow money power after a special application to the Court for that purpose to create charges on the property of the firm or company in priority to existing charges.

The Court shall have power to direct how and by whom the cost of any proceedings under this section and the remuneration charges and expenses of the Controller shall be borne and shall have power if it thinks fit to charge such costs charges and expenses on the property of the firm or company in such order of priority in relation to any existing charges thereon as it thinks fit.

9. Nothing in this Proclamation shall be deemed to prohibit payments by or on account of enemies to persons resident, carrying on business or being in the territory if such payments arise out of transactions entered into before the outbreak of war or otherwise permitted.

10. Nothing in this Proclamation shall be taken to prohibit anything which shall be expressly permitted by any licence given by the High Commissioner or on his behalf by any officer authorized by notice in the *Gazette* to grant licences under this Proclamation whether such licences be especially granted to individuals or be announced as applying to classes of persons.

11. This Proclamation may be cited for all purposes as "The Bechuanaland Protectorate Trading with the Enemy Proclamation 1914" 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 Sixteenth day of October One thousand Nine hundred and Fourteen.

BUXTON,
High Commissioner.

By Command of His Excellency the
High Commissioner.

C. H. RODWELL,
Imperial Secretary.