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 in Military Occupation of the Union Forces

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## PROCLAMATIONS

BY HIS HONOUR SIR EDMOND HOWARD LACAM GORGES, KNIGHT COMMANDER OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, A MEMBER OF THE ROYAL VICTORIAN ORDER, ADMINISTRATOR OF THE PROTECTORATE OF SOUTH-WEST AFRICA IN MILITARY OCCUPATION OF THE UNION FORCES.

No. 32 of 1920.]

WHEREAS it is desirable to amend the law in force in the Protectorate relating to the taxation of landed property,

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

1. The provisions of the Imperial Ordinance for German South-West Africa of the 19th March 1909 with amendments of the 12th October 1910 and 24th November 1913 shall be and are hereby amended as follows:—

- (1) For the Governor the Administrator is substituted.
- (2) For the Bezirks (Distrikts) Amt is substituted the Magistrate.
- (3) For the "Mark" is substituted the shilling.
- (4) For the "Pfennig" is substituted the hundredth part of a shilling.
- (5) For the "Commission of Appeal" (Berufungs Kommission) is substituted "the Administrator or such Board of persons as he may appoint in his stead, whose decision shall be final".
- (6) Section 3 of the Ordinance of the 19th March 1909, shall be and is hereby amended by the addition of the words "Aroab, Bethany, Malta-höhe and Warmbad" between the word "Luderitzbucht" and the words ". 5 pfg".
- (7) The provisions of Section 15 of the Ordinance of the 19th March 1909 shall be and are hereby amended by the substitution in the last paragraph thereof for the words "to the official treasury of the Division (District) or to the Head Treasury at Windhuk" (an die Amtskasse des Bezirks (Distrikts) oder an die

Hauptkasse in Windhuk) of the words "Magistrate of the district in which the property is situate".

- (8) Sections 10, 11, 16, 17, 18 and 20 of the Ordinance of the 19th March 1909 shall be and are hereby repealed.
  - (9) Section 19 of the Ordinance of the 19th March 1909 shall be and is hereby repealed as from the 4th day of August 1914 and prescription shall be deemed to have ceased to run in respect of all amounts due and payable and not prescribed upon that date.
  - (10) Section 21 of the Ordinance of the 19th March 1909 shall be and is hereby amended by the substitution of the word "Land" for "a" where it occurs between the words "to avoid payment of" and "Tax to which he is liable".
2. (1) For the purpose of ascertaining the value of property changing proprietors otherwise than by means of sale and purchase it shall be the duty of the Magistrate of the district either to claim duty upon the amount for which such property is valued for Municipal purposes where such valuation exists or in any case to appoint some competent and disinterested person to ascertain upon solemn declaration the just and fair value of such property and the reasonable expenses of such valuation shall be payable by the person chargeable with the payment of the duty, the amount of such Municipal valuation or the amount at which such valuator shall value the said property as the case may be, shall be the amount upon which duty shall be chargeable: provided that nothing herein contained shall be held or taken to prevent any person who shall consider himself aggrieved from bringing in review before any court having jurisdiction the valuation upon which duty has been claimed.
- (2) When in any case of sale and purchase of property (not being a sale and purchase by public auction, made bona fide and without collusion) it shall appear to the Magistrate that the price or purchase value of the same is considerably less than its just and fair value it shall be competent for the said Magistrate to cause a valuation of the said property to be made in manner and form as in the last preceding section mentioned and in case the value so ascertained shall exceed the amount of the said price or purchase money by

No. 36 of 1920.]

WHEREAS it is desirable to amend the law at present existing in the Protectorate relating to Public Health and to make other provision therefor;

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

1. From and after the taking effect hereof the provisions of the Public Health Act, 1919, of the Parliament of the Union of South Africa shall subject to the amendments set forth in schedule A hereto be of force and effect within the Protectorate.
2. The laws specified in schedule B hereto shall be and are hereby repealed together with all such other existing laws as may be repugnant to or in conflict with the provisions of the aforesaid Public Health Act.
3. This Proclamation may be cited for all purposes as the "Public Health Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk this seventh day of August, 1920.

E. H. L. GORGES

Administrator.

#### SCHEDULE "A".

##### 1. General Amendments.

The following terms shall have the following meanings respectively assigned to them wherever they occur in the abovementioned Act.

1. "Administrator", "Governor-General" and "Minister" mean the Administrator of the Protectorate of South-West Africa.
2. "Chief Health Officer" and "Assistant Health Officer" mean the Medical Officer to the Protectorate Administration.
3. "Consolidated Revenue Fund" means the Revenue Fund of the Protectorate of South-West Africa.
4. "Department of Public Health" means the Protectorate Administration of South-West Africa.
5. "Gazette" means the official Gazette of the Protectorate.
6. "Government" means the Protectorate Administration of South-West Africa.
7. "Principal Veterinary Officer" means the Senior Veterinary Officer of the Protectorate.
8. "Union" means the Protectorate of South-West Africa.

##### 2. Particular Amendments.

1. Sections 2, 3, and 4 are deleted.
2. Section 5 is amended:
  - (a) by the deletion of sub-section (2) and the substitution therefor of the following sub-section: "The Medical Officer to the Protectorate Administration and every health officer and every medical officer appointed under this section shall be a medical practitioner possessing a degree, diploma or certificate approved of by the Administrator.
  - (b) by the deletion in sub-section 3 of the words "of each Province" in line six.
  - (c) by the deletion in sub-section 3 of the words "in connection with provincial administration in that Province" in line eight.
3. Section 6 is amended by the deletion of the words "of the province or" in line twelve.
4. Section 7 (4) is amended:
  - (a) by the deletion of the words "any divisional council constituted in accordance with any law and shall also include"
  - (b) by the deletion of the word "proclamation" and the substitution therefor of the words "notice in the Gazette".
5. Section 8 is deleted.
6. Section 9 is amended:
  - (a) by the deletion in sub-section 1 of the words "until a local authority is established for that area either under the last preceding section or any other law" in lines three, four and five.
  - (b) by the deletion in sub-section 1 of the words "given after consultation with the Administrator or first being obtained" in lines eleven and twelve.
  - (c) by the deletion of sub-section 2.

7. Section 11 is amended:
  - (a) by the deletion in sub-section 1 (d) of the words "subject to an appeal to the Minister whose decision shall be final" in the last two lines thereof.
  - (b) by the deletion of sub-section 2.
8. Section 12 is amended:
  - (a) by the deletion in sub-section 2 of the words "or a degree diploma or certificate declared by the Governor-General by proclamation in the Gazette after consultation with the medical Council to have been granted in respect of a course of study which included an adequate course of study in public health or state medicine".
  - (b) by the deletion of sub-section 5.
9. Section 18 (2) is amended by the deletion of the last five lines thereof from the words "a copy" to the words "ensuing session" inclusive.
10. Section 37 is amended by the deletion of the word "proclamation" and the substitution therefor of the words "notice in the Gazette".
11. Section 49 is deleted.
12. Section 51 is deleted.
13. Section 67 is deleted.
14. Section 76 is amended by the deletion in sub-sections 1 and 2 of the word "proclamation" and the substitution therefor of the words "notice in the Gazette".
15. Section 83 is amended by the deletion of the words "Commissioner of Customs or any officer authorised thereto by the Commissioner" in lines four and five and the substitution therefor of the words "Officer in charge of Customs".
16. Section 84 is amended by the deletion in sub-sections 1 and 2 of the word "proclamation" and the substitution therefor of the words "notice in the Gazette".
17. Section 85 is deleted.
18. Section 87 is amended by the deletion in sub-sections 1 and 2 of the word "proclamation" and the substitution therefor of the word "notice".
19. Section 95 is amended by the deletion of the word "proclamation" where it occurs and the substitution therefor of the words "notice in the Gazette".
20. Section 103 is amended by the deletion of sub-section 3.
21. Section 135 is amended by the deletion of the words "voted by Parliament" in lines one and two and the substitution therefor of the words "provided from the revenues of the Protectorate".
22. Section 137 is amended by the deletion of sub-section 1 and 2.
23. Section 138 is amended:
  - (a) by the deletion of paragraph (a)
  - (b) by the deletion of the word "other" in paragraph (b), line one.
24. Section 143 is amended by the deletion of the word "an" in lines three and fifteen and the substitution therefor of the word "the".
25. Section 153 is deleted.
26. Section 157 is amended:
  - (a) by the deletion of the word "proclamation" where it occurs

- (b) by the deletion in sub-section 1 of the word "an" in line three and the substitution therefor of the word "the".
27. Section 158 is amended.
- (a) by the deletion in sub-section 1 of the words "any department of" in line six.
- (b) by the deletion in sub-section 3 of the words "Railways and Harbours Fund" in lines two and three and the substitution therefor of the words "revenue of the said Administration".
28. Section 159 is amended.
- (a) by the deletion of the definition of "Administrator"
- (b) by the deletion of the words "principal veterinary officer of the Union" occurring in the definition of "approved veterinary surgeon" and the substitution therefor of the words "senior veterinary officer of the Protectorate".
- (c) by the deletion of the definitions of "chief health officer" and "assistant health officer".
- (d) by the addition of the words "of the Parliament of the Union of South Africa" after the figures "1918" occurring in the definition of "factory".
- (e) by the deletion of the words "any province of the Union" occurring in the definition of "medical practitioner" and the substitution therefor of the words "the Protectorate".
- (f) by the deletion of the definition of "Minister"
- (g) by the deletion of the word "proclamation" in the third last line and the substitution therefor of the word "notice".
29. Section 160 is deleted.
30. Section 161 is deleted.
31. The First and Second Schedules are deleted.

SCHEDULE "B".  
LAWS REPEALED.

1. Ordinance by the Governor relating to slaughter of stock and inspection of meat of 27th June, 1911.
2. Ordinance by the Governor relating to vaccination of 30th July, 1912.
3. Notice by the Governor relating to free treatment of natives suffering from sexual disease of 31st July 1912.
4. Ordinance by the Governor relating to the prevention of the spread of diseases which are contagious and dangerous to the public of 27th May, 1913.

No. 37 of 1920.]

WHEREAS it is desirable to interpret and shorten the language of Laws now or hereafter in force in this Protectorate,

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

1. In the interpretation of every law (as in this Proclamation defined) now or hereafter in force in the Protectorate or in any portion thereof, and in the interpretation of all bye-laws, rules, regulations, or orders made under the authority of any such law, the definitions and other provisions in this Proclamation contained shall, unless there be something in the language or context of the law, bye-law, rule, regulation or order, repugnant to such definitions or provisions, or unless the contrary intention therein appear, be adopted and applied.
2. The following expressions shall, unless the context otherwise requires or unless in the case of any law it is otherwise provided therein, have the meanings hereby respectively assigned to them, namely:—

"Administrator" shall mean the Administrator of the Protectorate of South-West Africa or any person lawfully acting in that capacity;

- "christian name" shall mean any name prefixed to the surname, whether received at Christian baptism or not;
- "district" shall mean the area subject to the jurisdiction of the court of any magistrate;
- "Gazette" shall mean the Official Gazette of the Protectorate;
- "Governor-General" shall mean the officer for the time being administering the government of the Union of South Africa acting by and with the advice of the Executive Council thereof;
- "law" shall mean and include any law, proclamation or other enactment having the force of law;
- "month" shall mean a calendar month;
- "oath" and "affidavit" shall, in the case of persons allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression "swear" shall, in the like case, include "affirm" and "declare";
- "Parliament" shall mean the Parliament of the Union of South Africa;
- "person" shall include —
- (a) municipal council, or like authority; or
  - (b) any company incorporated or registered as such under any law; or
  - (c) any body of persons corporate or unincorporate;
- "Province" shall mean a Province of the Union of South Africa;
- "The Protectorate" shall mean the territory of South-West Africa lately under the Sovereignty of Germany and at present under the administration of the Government of the Union of South Africa;
- "The Union" shall mean the territorial limits of the Union of South Africa as constituted for the time being in accordance with the South Africa Act, 1909, or any amendment thereof.

3. In every law, expressions relating to writing shall, unless the contrary intention appears, be construed as including also references to typewriting, lithography, photography, and all other modes of representing or reproducing words in a visible form.
4. When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day shall happen to fall on a Sunday or on any other day appointed by or under the authority of a law as a public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.
5. In the measurement of any distance for the purpose of any law, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.
6. In every law, unless the contrary intention appears
  - (a) words importing the masculine gender shall include females; and
  - (b) words in the singular number shall include the plural, and words in the plural number shall include the singular.
7. Where any law authorizes or requires any document to be served by post, whether the expression "serve" or "give" or "send", or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a registered letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

8. In every law unless the contrary intention appears, the expression "rules of court", when used in relation to any court, shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of that court.

The powers of the said authority to make rules of court, as above defined, shall include a power to make rules of court for the purpose of any law directing or authorizing anything to be done by rules of court.

9. (1) When a law confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where a law confers a power, jurisdiction, or right, or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power, jurisdiction or right may be exercised and the duty shall be performed from time to time by the holder for the time being of the office, or by the person lawfully acting in the capacity of such holder.

(3) Where a law confers a power to make rules, regulations, or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power exercisable in like manner and subject to the like consent and conditions (if any) to rescind, revoke, amend, or vary the rules, regulations, or bye-laws.

10. Where an act or omission constitutes an offence under two or more statutes or is an offence against a statute and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted, and punished under either statute, or (as the case may be) under the statute or the common law, but he shall not be liable to more than one punishment for the act or omission constituting the offence.

11. (1) Where a law repeals and re-enacts, with or without modifications, any provisions of a former law, references in any other law to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

(2) Where a law repeals any other law, then, unless the contrary intention appears, the repeal shall not —

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any law so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, forfeiture, or punishment as is in this sub-section mentioned;

and any such investigation, legal proceedings, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing law had not been passed.

(3) When a law repeals wholly or partially any former law and substitutes provisions for the law so repealed, the repealed law shall remain in force until the substituted provisions come into operation.

12. (1) The expressions "commencement" and "taking effect" when used in any law in reference

thereto, shall mean the day on which that law comes or came into operation, and that day shall subject to the provisions of sub-section (2) of this section and unless some other day is fixed by or under the law for the coming into operation thereof, be the day when the law was first published in the Gazette as a law.

(2) Where any law, or any order, warrant, scheme, rules, regulations, or bye-laws made, granted, or issued, under the authority of a law, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

(3) Where a law confers a power —

- (a) to make any appointment; or
- (b) to make, grant, or issue any instrument, order, warrant, scheme, rules, regulations, or bye-laws; or
- (c) to give notices; or
- (d) to prescribe forms; or
- (e) to do any other act or thing for the purpose of the law,

that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that any instrument, order, warrant, scheme, rules, regulations, or bye-laws, made, granted, or issued under the power shall not, unless the contrary intention appears in the law or the contrary is necessary for bringing the law into operation, come into operation until the law comes into operation.

13. When any act, matter or thing is by law directed or authorised to be done by the Governor-General or by the Administrator, or by any public officer, the notification that such act, matter, or thing has been done, may unless a specified instrument or method is by that law prescribed for the notification, be by notice in the Gazette.

14. When any bye-law, regulation, rule or order is authorised by any law to be made by the Governor-General, the Administrator, or by any local authority, public body, or person, with the approval of the Governor-General or the Administrator, such bye-law, regulation, rule, or order, shall, subject to the provisions relative to the force and effect thereof in any law, be published in the Gazette and production of a copy of the Gazette containing a notice of the making or approval (as the case may be) of the bye-law, regulation, rule, or order by the Governor-General or the Administrator shall be sufficient evidence of such making or approval.

This Proclamation may be cited for all purposes as "The Interpretation of Laws Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk this 7th day of August 1920.

E. H. L. GORGES  
Administrator.

No. 38 of 1920.]

WHEREAS it is desirable to make further provision for the administration of justice in the Protectorate,

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

1. Notwithstanding the provisions of section 3 (4) of the Administration of Justice Proclamation, 1919, it shall be lawful for the High Court of South-West Africa to be held at any place or places within the Protectorate that may be appointed from time to time by the Judge of the said High Court.

2. It shall be lawful for the Administrator by Notice in the Official Gazette to divide the Protectorate into two or more circuit districts and to fix the boundaries of every such district and to alter such boundaries from time to time as occasion may require.
3. (1) Courts, to be called Circuit Courts, shall be held once in the year 1920 and thereafter at least twice in every year in each of the districts referred to in the last preceding section at such times and at such place or places within each of the said districts as the Administrator shall from time to time by Notice in the Official Gazette direct and appoint.  
(2) Each of the said Circuit Courts shall be a Court of Record.  
(3) Save as is provided by sub-section (4) of this section, each of the said Circuit Courts shall be held by the Judge of the High Court of South-West Africa.  
(4) The jurisdiction of a Circuit Court for the trial and punishment of crimes and offences shall be exercised by the Judge of the High Court of South-West Africa and two members, appointed to such Circuit Court from time to time as occasion may require by the Administrator, who shall be advocates of not less than five years standing or persons holding or qualified to hold within the Union of South Africa or the Protectorate the office of Magistrate. The Judge shall be the president of the Court, and the decision of the majority of the members of the Court shall be the judgment of the Court.
4. Each of the said Circuit Courts shall within the district in which it may be held have and exercise concurrently with the High Court of South-West Africa the same jurisdiction, powers and authority as are vested in the said High Court throughout the whole of the Protectorate; provided that nothing in this Proclamation contained shall be deemed to confer on any Circuit Court any appellate jurisdiction or the power of reviewing the proceedings of inferior Courts.
5. If any cause, proceeding or matter, civil or criminal, has been instituted in the High Court of South-West Africa or any of the said Circuit Courts and it appear to the Court before which the cause, proceeding or matter is pending or to any other of the said Courts that the same may be more conveniently or more fitly heard or determined either in the said High Court or in a Circuit Court other than that in which it is pending, it shall be lawful for the Court to which it shall appear as aforesaid, whether or not the cause, proceeding or matter has been partly heard, to order the same to be removed to such other Court. The order for the removal shall be transmitted to the Registrar of that other Court and upon the receipt thereof it shall be lawful for that other Court to hear or to continue the hearing of any such cause, proceeding or matter and to determine the same, as if it had been originally instituted and prosecuted in such lastmentioned Court.
6. There shall be attached to each of the said Circuit Courts a Registrar, who shall be appointed by the Administrator, and who shall keep the records of the said Court. The Registrar shall receive on behalf of the Administration such fees as shall be prescribed by the Administrator by notice in the Official Gazette.
7. All advocates and attorneys admitted and enrolled in the High Court of South-West Africa shall be entitled without any other admission or enrolment to practise respectively as advocates or attorneys in any Circuit Court aforesaid.
8. Within one month of the close of each Circuit Court the Registrar thereof shall transmit the records and proceedings in all cases, civil and criminal, heard and determined before such Court to the Registrar of the High Court of South-West Africa, to be kept by him and filed of record in like manner as the records of the said High Court.
9. Every process, writ, order, judgment or sentence of any Circuit Court may be executed in any district of the Protectorate in the same manner and by the same officers as if such process, writ, order, judgment or sentence had been issued, made, given or passed by the High Court of South-West Africa.
10. The Criminal Procedure and Evidence Proclamation, 1919, is hereby amended (1) by the addition after the words "High Court of South-West Africa", occurring in paragraph 1 of the General Amendments contained in the Schedule to the said Proclamation, of the words "and all Circuit Courts in the Protectorate", and (2) by the deletion of the words "The Supreme Court for the Protectorate is the High Court of South-West Africa as described in the Administration of Justice Proclamation, 1919", occurring in paragraph 3 of the Particular Amendments contained in the said Schedule, and the substitution therefor of the words "The superior courts for the Protectorate are the High Court of South-West Africa and all Circuit Courts".
11. The law of procedure and evidence in civil proceedings before the said Circuit Courts shall be that for the time being followed by the Circuit Local Divisions of the Supreme Court of South Africa in the Province of the Cape of Good Hope; and the law of procedure and evidence in criminal proceedings before the said Circuit Courts shall be that prescribed by the Criminal Procedure and Evidence Act, 1917, of the Union Parliament, as applied to the Protectorate by the Criminal Procedure and Evidence Proclamation, 1919, as amended by section 10 of this Proclamation.
12. The Judge of the High Court of South-West Africa shall, subject to the approval of the Administrator, frame rules for the conduct of the proceedings of the said Circuit Courts.
13. The Administrator may make regulations as to the method of transport of the Judge of the High Court of South-West Africa and the scales of transport, travelling and subsistence allowances, when he is travelling on duty or is absent on duty from his place of residence.
14. In every case in which any judgment, decree or order of the High Court of South-West Africa or of any Circuit Court shall require to be proved, inspected or in any manner referred to in any other Court, a copy of such record certified under the signature of the Registrar of such Court, or where the records have been transmitted to the High Court under the signature of the Registrar of the High Court, shall be taken and received as prima facie evidence of such record; provided that it shall not be necessary in regard to any such certified copy to prove the handwriting of the Registrar to any such copy.
15. This Proclamation may be cited for all purposes as the "Further Administration of Justice Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk this 7th day of August, 1920.

E. H. L. Gorges  
Administrator.