

No. 38, 1927.]

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ACT

To provide for the better control and management of native affairs.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa as follows:—

CHAPTER I.

ADMINISTRATION.

1. The Governor-General shall be the supreme chief of all Natives in the Provinces of Natal, Transvaal and Orange Free State, and shall in any part of the said Provinces be vested with all such powers and authorities in respect of all Natives as are, at the commencement of this Act, vested in him in respect of Natives in the Province of Natal.

2. (1) The Governor-General may, subject to the law relating to the public service, appoint for any area an officer, to be styled chief native commissioner, who shall exercise such powers and perform such duties as the Minister may from time to time prescribe.

(2) The Governor-General may, subject to the law relating to the public service, appoint for any area in which large numbers of Natives reside a native commissioner and so many assistant native commissioners as he may deem necessary. Such officers shall perform such duties as may be required by any law or assigned to them by the Minister, and shall, within the area for which they are appointed, have the powers of justices of the peace.

(3) Any person who at the commencement of this Act holds the position of native commissioner or sub-commissioner shall be eligible for appointment under sub-section (2). No person other than an officer in the public service who has since the 31st day of May, 1910, been on the fixed establishment of either the Department of Natives Affairs or the Department of Justice shall thereafter be appointed to be a native commissioner or assistant native commissioner unless he has passed the civil service lower law examination or an examination determined by the Public Service Commission for the purposes of this section to be equivalent thereto.

(4) Every native commissioner and every assistant native commissioner in the Transvaal Province shall, within the area for which he is appointed, have the power to solemnize marriages under Law No. 3 of 1897 (Transvaal).

(5) Notwithstanding the provisions of sub-section (3), the Minister may, when circumstances require, appoint any person to act temporarily as a native commissioner or assistant native commissioner in the place of or in addition to the ordinary incumbent of the post.

(6) The Minister may appoint superintendents to assist in the control and supervision of locations, and may prescribe their duties.

(7) The Governor-General may recognise or appoint any person as a chief or headman in charge of a tribe or of a location, and is hereby authorized to make regulations prescribing the duties, powers and privileges of such chiefs or headmen. The Governor-General may depose any chief or headman so recognized or appointed.

Powers of
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(8) Any person obstructing any officer, chief or headman in this section mentioned in the lawful execution of his duty shall be guilty of an offence.

CHAPTER II.

TRIBAL ORGANIZATION AND CONTROL.

3. (1) Subject to the provisions of this section, a native people or tribe shall not be responsible for the personal obligations of its chief; nor shall a tribe or the ground occupied by a tribe be bound in any way whatsoever by any contract entered into or any liability incurred by a chief unless it has been approved by the Minister after having been adopted by a majority of the adult male members of the tribe present at a public meeting convened for the purpose of considering such contract or liability.

(2) The written certificate of a native commissioner that the contract or liability referred to therein has been adopted in terms of sub-section (1) shall be conclusive evidence of that fact.

4. No legal proceedings in regard to the ownership, occupation or acquisition of land by a native tribe shall be instituted or maintained against the chief of such tribe or against such tribe, or both, by an individual member or members of the tribe concerned unless such member or members produce a written certificate issued by the Secretary for Native Affairs, stating that the Governor-General has approved of the institution of such proceedings.

5. (1) The Governor-General may—

- (a) define the boundaries of the area of any tribe or of a location, and from time to time alter the same, and may divide existing tribes into one or more parts or amalgamate tribes or parts of tribes into one tribe, or constitute a new tribe, as necessity or the good government of the Natives may in his opinion require;
- (b) whenever he deems it expedient in the general public interest, order the removal of any tribe or portion thereof or any Native from any place to any other place within the Union upon such conditions as he may determine: Provided that in the case of a tribe objecting to such removal, no such order shall be given unless a resolution approving of the removal has been adopted by both Houses of Parliament.

(2) Any Native who neglects or refuses to comply with any order issued under paragraph (b) of sub-section (1), or with any conditions thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or to imprisonment for any period not exceeding three months.

(3) Any magistrate, native commissioner or assistant native commissioner within whose area of jurisdiction the place from which the removal is to be made is situate, may, upon such conviction, take all such steps as may be necessary to effect the removal in terms of the order.

CHAPTER III.

LAND REGISTRATION AND TENURE.

6. (1) All the powers and duties hitherto vested in or imposed upon registrars of deeds under the law relating to the registration of deeds, in so far as may relate to immovable property owned by Natives and situate within any such area included in the Schedule to the Natives Land Act, 1913 (Act No. 27 of 1913) or any amendment thereof, as may be defined by the Governor-General by proclamation in the *Gazette* shall, upon the issue of such proclamation, devolve upon the chief native commissioner of the area within which such immovable property is situate and all documents relating to any such immovable property shall thereupon be transferred from any existing deeds registry to the custody of the chief native commissioner concerned: Provided that any registrar of deeds may instead of so transferring any document filed in

his registry furnish the chief native commissioner concerned with a copy thereof certified under his hand, which copy shall thereafter be as valid for all purposes as the original document.

(2) The Governor-General may make all such regulations as he may deem expedient for giving effect to the provisions of sub-section (1), and may in such regulations prescribe the fees to be charged by chief native commissioners in the exercise of any function under that sub-section.

Substitution
of new title
to land in
certain cases.

7. (1) The Governor-General may revoke any grant of land in a location made on individual tenure to a Native upon quitrent conditions, and issue a substituted deed of grant in favour of the holder or of such person as may be adjudged to be entitled to be registered as the holder in conformity with the procedure prescribed in section *eight*.

(2) Such substituted grant shall be registered in the appropriate registry established under section *six*, and shall be in such form and subject to such conditions as the Governor-General may by proclamation prescribe.

Determina-
tion of right
of occupation
or ownership
of certain
lands.

8. (1) The Governor-General may at any time appoint a commissioner for the purpose of investigating and determining the rights of occupation or ownership of Natives claiming to own land in respect of which a deed of grant or title has at any time been issued.

(2) The commissioner shall be the magistrate of the district in which the land in question is situated, or some other official selected for the purpose.

(3) The commissioner shall have all the powers conferred by law on magistrates' courts for the summoning of witnesses, their examination on oath, and to compel the production of documents.

(4) Witnesses called by the commissioner shall be subject to all the duties and liabilities, and shall be entitled to all the privileges of witnesses called to give evidence in a magistrate's court.

(5) When necessary, a surveyor may be appointed to assist the commissioner in an advisory capacity in his investigations.

(6) It shall be the duty of the commissioner after giving such notice to interested parties as shall be prescribed by regulations under this Act to enquire into the ownership of all lands in respect of which he has been appointed, and to submit to the Minister a certified list of all lots found to be actually occupied by registered holders.

(7) When land is found by the commissioner to be in the occupation of a Native who is not the registered holder, he shall enquire into and determine who is the person entitled to be registered as the holder of such land, and a certificate by the commissioner in the form prescribed by regulations made under sub-section (10) that the person named therein is the person entitled to be registered as the holder of the land specified shall, without it being necessary to pass transfer to any intermediate owner or occupier, be sufficient authority for the registration in the appropriate registry established under section *six* of such person as the lawful owner, free of any transfer duty on payment of a fee of one pound:

Provided that in any case in which any mortgage bond is registered in respect of the said land the lawful owner shall take transfer subject to the said bond: Provided further that if in any case the occupier is not the person ultimately named in the certificate as the person entitled to be registered as the holder and if the commissioner is satisfied that such occupier has *bona fide* effected improvements on the property the commissioner shall assess the value of the said improvements. Until the amount so assessed shall be paid to or secured for the benefit of the occupier the registration of the person named in the certificate as the lawful holder shall not be made.

(8) Should the commissioner be unable to discover the owner of any such land he shall report accordingly to the Minister,

who shall take such steps in regard to such land as may be prescribed by regulations framed under this Act.

(9) Any person deeming himself to be aggrieved by any decision of the commissioner may, in the manner and within the period prescribed by regulations, appeal in writing to a board of three persons who shall be appointed by the Governor-General from time to time as may be required, with all the powers of a commissioner under this chapter and whose decision shall be final.

(10) The Governor-General may make regulations for the effective carrying out of the provisions of this section.

CHAPTER IV.

JUDICIAL ORGANIZATION AND PROCEDURE.

9. The Governor-General may, by proclamation in the *Gazette*, confer criminal jurisdiction upon a native commissioner in respect of any offence, subject to the jurisdiction of a magistrate's court, committed by a Native within his area of jurisdiction, and thereupon such native commissioner shall, for all purposes of the Magistrates' Courts Act, 1917 (Act No. 32 of 1917), or any amendment thereof, and of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), or any amendment thereof, be deemed to be a magistrate's court or a magistrate in connection with any proceedings relating to any offence committed by a Native. The jurisdiction so conferred upon a native commissioner shall be concurrent with the jurisdiction of the magistrate's court and magistrate concerned under the said Acts.

10. (1) The Governor-General may, by proclamation in the *Gazette*, constitute courts of native commissioners for the hearing of all civil causes and matters between Native and Native only:

Provided that a native commissioner's court shall have no jurisdiction in matters in which—

- (a) the status of a person in respect of mental capacity is sought to be affected;
- (b) is sought a decree of perpetual silence;
- (c) *namptissement* is sought;
- (d) the validity or interpretation of a will or other testamentary document is in question; or
- (e) a decree of divorce or separation in respect of a marriage contracted according to civil or Christian rites is sought.

(2) Every such court shall be a court of law, and shall be presided over by a native commissioner or an assistant native commissioner.

(3) The Governor-General shall prescribe the local limits within which such courts shall have jurisdiction, and may, by proclamation in the *Gazette*, abolish or alter the area of jurisdiction of any such court:

Provided that, when the parties to any proceedings do not both reside in the same area of jurisdiction of any such court the court of native commissioner (if any) within whose area of jurisdiction the defendant resides shall have jurisdiction in such proceedings.

(4) The Governor-General may make regulations prescribing in respect of courts of native commissioners—

- (a) the manner and form of procedure to be observed;
- (b) the times and places of holding courts;
- (c) the keeping of records;
- (d) the mode of compelling the attendance of witnesses and assessors, and the allowances to be paid to them;
- (e) the costs, fees or charges of any matter in connection with any proceedings in such courts, including costs between party and party and between attorney and client.
- (f) the execution of process;
- (g) the appearance of representatives on behalf of parties and
- (h) such other matters as the Governor-General may deem necessary for the proper carrying out of the purpose of this section.

Different regulations may be made for different classes of case or for different areas.

What law to be applied in native commissioner's courts.

11. (1) Notwithstanding the provisions of any other law, it shall be in the discretion of the courts of native commissioners in all suits or proceedings between Natives involving questions of customs followed by Natives, to decide such questions according to the native law applying to such customs except in so far as it shall have been repealed or modified: Provided that such native law shall not be opposed to the principles of public policy or natural justice: Provided further that it shall not be lawful for any court to declare that the custom of lobola or bogadi or other similar custom is repugnant to such principles.

(2) Where the parties to a suit reside in areas where different native laws are in operation, the native law, if any, to be applied by the court shall be that prevailing in the place of residence of the defendant.

Settlement of civil disputes by native chiefs.

12. (1) The Governor-General may authorize any native chief recognised or appointed under sub-section (7) of section two to hear and determine civil claims arising out of native law and custom by Natives against Natives resident within his area of jurisdiction brought before him: Provided that the Governor-General may at any time revoke such authority granted to such chief and, provided further, that a native chief shall not under this or any other law have power to determine any question of divorce or separation arising out of any marriage which is not a customary union or which falls under the provisions of Chapter X of the Schedule to Law No. 19 of 1891 (Natal).

(2) The judgment of such chief shall be executed in accordance with such procedure as may be prescribed by regulation under sub-section (5).

(3) Any party dissatisfied with the judgment of a native chief may, in the manner and within the period prescribed by regulation, notify such chief (or his representative) of his intention to appeal to the native commissioner, and thereupon such judgment shall be suspended until the decision is given on such appeal: Provided that such appeal is prosecuted within the period prescribed by regulation.

(4) The court of native commissioner may confirm, alter or set aside the judgment after hearing such evidence (which shall be duly recorded) as may be tendered by the parties to the dispute, or may be deemed desirable by the court.

(5) The Minister may make regulations for the effective carrying out of the provisions of this section.

Native appeal court.

13. (1) The Governor-General shall, as soon as practicable after the commencement of this Act, by proclamation in the *Gazette*, constitute one or more native appeal courts for the hearing of appeals in any proceedings from courts of native commissioners. Such proclamation shall define the area in respect of which the several appeal courts shall exercise jurisdiction.

(2) A native appeal court shall consist of three members (one of whom shall be president).

(3) The president shall be appointed by the Governor-General, and if not already a member of the public service of the Union shall become a member thereof and shall receive such salary as the Governor-General may determine: Provided that if the president is unable to act as such the Minister may appoint any person to act in his stead and, unless such person is a member of the public service, he may pay him such salary, not exceeding the salary paid to the president, as he may determine.

(4) The members of the court other than the president shall be appointed, as required from time to time, by the Minister, and shall be selected from magistrates, native commissioners or other qualified persons.

(5) The Governor-General may from time to time make rules regulating—

(a) the appointment and duties of the officers of the court, the records to be kept and the practice and procedure in the court;

(b) the mode of compelling the attendance of witnesses and assessors, and the allowances to be paid to them;

- (c) the fees which may be charged by advocates and attorneys, costs as between party and party and as between attorney and client, and the taxation of costs;
- (d) the fees and charges to be imposed and taken by officers of the court;
- (e) the noting of appeals and the suspension of the judgment appealed against;
- (f) the appearance of parties or of persons on their behalf in a native appeal court;
- (g) generally, all such other matters relating to the courts as the Governor-General may deem necessary for the purposes of this section.

(6) The native appeal courts shall sit at such times and places as the Minister may, by notice in the *Gazette*, appoint.

(7) The decision of the majority of the members shall be the judgment of the court.

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14. Whenever conflicting decisions are given by a native appeal court within its area of jurisdiction the Minister may cause a special case to be prepared and to be argued before the Appellate Division of the Supreme Court of South Africa, in order to obtain its ruling thereon, and such ruling shall thereafter be deemed to be the correct decision in the matter.

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15. A native appeal court shall have full power to review, set aside, amend or correct any order, judgment or proceeding of a native commissioner's court within the area of its jurisdiction, or to direct a case from such a court to be retried or reheard or to make any such order upon the case as the interests of justice may require: Provided that no judgment or proceeding shall, by reason of any irregularity or defect in the record or proceedings, be reversed or set aside unless it appears to the court of appeal that substantial prejudice has resulted therefrom.

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16. (1) Advocates and attorneys of the Supreme Court of South Africa shall be entitled to appear in a court of native commissioner and in a native appeal court.

(2) Every person who is entitled to practise as an agent in a magistrate's court within the area of jurisdiction of a court of native commissioner shall be entitled to appear in such court of native commissioner, but in no other court of native commissioner.

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17. (1) As from the date on which a native appeal court having jurisdiction in the Province of Natal is constituted under section *thirteen*, the Natal Native High Court shall cease to have jurisdiction in any civil matter, and the powers up till that date vested in the said High Court in respect of civil matters shall, in so far as they relate to matters coming within the jurisdiction of such native appeal court, vest in such court and in so far as they do not relate to such matters, shall vest in the Natal Provincial Division of the Supreme Court.

(2) As from the date on which a native appeal court having jurisdiction in the Transkeian Territories is constituted under section *thirteen*, the Native Territories Appeal Court constituted under Proclamation No. 145 of 1923 shall be abolished, and the powers up to that date vested in such court shall in so far as they relate to matters coming within the jurisdiction of such first-mentioned native appeal court, vest in such court and in so far as they do not relate to such matters shall vest in the Supreme Court.

(3) As from the date of the constitution in any area of the Province of the Transvaal of a court of native commissioner under section *ten*, the court of native commissioner previously existing in that area under the provisions of Ordinance No. 3 of 1902 of the Transvaal shall be abolished.

(4) As from the date of the constitution in any area of a court of native commissioner under this Act, a magistrate's court shall cease to have jurisdiction in that area in respect of any civil suit arising under section *ten* of this Act.

(5) Any case pending in any court when the jurisdiction of that court is limited or determined by any provision of this section, shall be dealt with in every respect as if this section had not been enacted.

Appeal from native commissioner's court. 18. (1) Notwithstanding anything in any law contained, no appeal shall lie from the judgment of a court of native commissioner in respect of an action or proceeding except to a native appeal court constituted under section *thirteen*, unless the native appeal court itself consents to an application for leave to appeal (upon any point stated by the said court) being made to the Appellate Division of the Supreme Court, subject in any event to the rules of the said Appellate Division.

(2) Save as is provided in section *fourteen* and in this section, the decision of a native appeal court shall be final and conclusive.

Native assessors in appeal courts and courts of native commissioner. 19. (1) In any case in which a native appeal court or native commissioner's court deems it desirable, it shall be at liberty to call to its assistance, in an advisory capacity, such native assessors as the court may deem necessary.

(2) The opinion of such assessors shall be recorded, and form part of the record.

Owners of chiefs to try certain offences. 20. (1) The Governor-General may grant to any native chief jurisdiction over members of his own tribe resident or being upon tribal land or in a tribal location within his area in respect of offences punishable under native law and custom.

(2) The Governor-General may at any time revoke such grant of jurisdiction.

(3) In the exercise of jurisdiction conferred upon him under sub-section (1), a chief may impose a fine not exceeding two head of cattle or five pounds upon any person convicted by him of any such offence.

(4) The procedure at the trial of any offence under this section the manner of execution of any penalty imposed in respect of such offence, and the appropriation of fines shall, save in so far as the same may be specified by regulation which the Minister is hereby authorized to make, be in accordance with native law and custom.

(5) Any conviction under this section shall be subject to appeal to the magistrate in the manner and within the period prescribed by regulation.

Retention of chief's jurisdiction in Bechuanaland. 21. Save as laid down in the second proviso to sub-section (1) of section *twelve*, nothing in that section or in section *twenty* shall be construed as depriving any native chief in British Bechuanaland of jurisdiction in any matter, civil or criminal, in respect of which such chief exercises jurisdiction under any law in force at the commencement of this Act.

CHAPTER V.

MARRIAGE AND SUCCESSION.

Marriages of Natives: property rights. 22. (1) No male Native shall, during the subsistence of any customary union between him and any woman, contract a marriage with any other woman unless he has first declared upon oath, before the magistrate or native commissioner of the district in which he is domiciled, the name of every such first-mentioned woman; the name of every child of any such customary union; the nature and amount of the movable property (if any) allotted by him to each such woman or house under native custom; and such other information relating to any such union as the said official may require.

(2) Upon the official before whom such declaration is made being satisfied of the accuracy thereof, it shall be recorded by him, and such original record of the declaration, or a copy thereof certified under the hand of any magistrate or native commissioner of the district in which it was recorded, shall be admissible in evidence in any proceedings in which the facts therein declared may be relevant, and any document purporting to be such a record, or a copy thereof certified as aforesaid, shall *prima facie* be so admissible without proof of its execution.

(3) No minister of the Christian religion authorized under any law to solemnize marriages, nor any marriage officer, shall solemnize the marriage of any Native male person unless he

has first taken from such a person a declaration as to whether there is subsisting at the time any customary union between such person and any woman other than the woman to whom he is to be married and, in the event of any such union subsisting, unless there is produced to him by such person a certificate under the hand of a magistrate or native commissioner that the provisions of this section hereinbefore set out have been duly complied with.

(4) Any person contravening sub-section (3) shall be guilty of an offence, and shall, upon conviction, be liable to a fine not exceeding twenty-five pounds, or, in default of payment, to imprisonment for a period not exceeding three months.

(5) Any Native male person who during the subsistence of any customary union between him and any woman contracts a marriage with any other woman without having previously made a declaration referred to in sub-section (1) or sub-section (3) shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding six months; and any Native male person who knowingly makes any false statement in any such declaration shall be guilty of an offence and punishable in the same manner as if he had committed the crime of perjury.

(6) A marriage between Natives, contracted after the commencement of this Act, shall not produce the legal consequences of marriage in community of property between the spouses: Provided that in the case of a marriage contracted otherwise than during the subsistence of a customary union between the husband and any woman other than the wife it shall be competent for the intending spouses at any time within one month previous to the celebration of such marriage to declare jointly before any magistrate, native commissioner or marriage officer (who is hereby authorized to attest such declaration) that it is their intention and desire that community of property and of profit and loss shall result from their marriage, and thereupon such community shall result from their marriage except as regards any land in a location held under quitrent tenure such land shall be excluded from such community.

(7) No marriage contracted after the commencement of this Act during the subsistence of any customary union between the husband and any woman other than the wife shall in any way affect the material rights of any partner of such union or any issue thereof, and the widow of any such marriage and any issue thereof shall have no greater rights in respect of the estate of the deceased spouse than she or they would have had if the said marriage had been a customary union.

(8) Nothing in this section or in section *twenty-three* shall affect any legal right which has accrued or may accrue as the result of a marriage in community of property contracted before the commencement of this Act.

Succession. 23. (1) All movable property belonging to a Native and allotted by him or accruing under native law or custom to any woman with whom he lived in a customary union, or to any house, shall upon his death devolve and be administered under native law and custom.

(2) All land in a location held in individual tenure upon quitrent conditions by a Native shall devolve upon his death upon one male person, to be determined in accordance with tables of succession to be prescribed under sub-section (10).

(3) All other property of whatsoever kind belonging to a Native shall be capable of being devised by will. Any such property not so devised shall devolve and be administered according to native law and custom.

(4) Any dispute or question which may arise out of the administration or distribution of any estate in accordance with native law shall be determined by the native commissioner, or where there is no native commissioner by the magistrate of the district in which the deceased ordinarily resided, or in respect of immovable property by the native commissioner or, where there is no native commissioner, by the magistrate of the district where such property is situate, and every decision of a native commissioner or magistrate under this section shall be subject to an appeal to the native appeal court hereinbefore

referred to, and the decision of such court shall, save as is provided in sections *fourteen* and *eighteen*, be final.

(5) Any claim or dispute in regard to the administration or distribution of any estate of a deceased Native shall, unless all the parties concerned are Natives, be decided in an ordinary court of competent jurisdiction.

(6) In connection with any such claim or dispute, the heir, or in case of minority his guardian, according to native law, or the executor testamentary shall be regarded as the executor in the estate as if he had been duly appointed as such according to the law governing the appointment of executors.

(7) Letters of administration from the Master of the Supreme Court shall not be necessary in, nor shall the Master have any powers in connection with, the administration and distribution of the intestate estate of any deceased Native.

(8) A Master of the Supreme Court may revoke letters of administration issued by him in respect of any Native estate.

(9) In regard to property validly bequeathed by the will of a deceased Native, native law shall not apply, in which case a certificate by the native commissioner or magistrate designating the heir or guardian, or executor testamentary, as the case may be, as executor in terms of sub-section (6), shall be regarded for all purposes as equivalent to letters of administration.

(10) The Governor-General may make regulations not inconsistent with this Act—

- (a) prescribing the manner in which the estates of deceased Natives shall be administered and distributed ;
- (b) defining the rights of widows or surviving partners in regard to the use and occupation of the quitrent land of deceased Natives ;
- (c) dealing with the disherison of natives ;
- (d) prescribing the powers and duties of Native commissioners or magistrates in carrying out the functions assigned to them by this section ;
- (e) prescribing tables of succession in regard to natives ; and
- (f) generally for the better carrying out of the provisions of this section.

(11) Any native estate which has, prior to the commencement of this Act, been reported to a Master of the Supreme Court shall be administered as if this Act had not been passed, and the provisions of this Act shall apply in respect of every native estate which has not been so reported.

CHAPTER VI.

LEGISLATION.

24. (1) Notwithstanding anything to the contrary in Natal Law No. 19 of 1891, the Governor-General may from time to time, by proclamation in the *Gazette*, amend the provisions of the Natal Code of Native Law which code or any amendments thereof shall remain of full force and effect except in so far as amended under the provisions of this section: Provided that no such proclamation shall have any force or effect until one month has elapsed from the date of its promulgation in the *Gazette*.

(2) The Governor-General may, by proclamation in the *Gazette*, extend the operation of the Code of Native Law mentioned in sub-section (1), and any amendment thereof, to Zululand in the Province of Natal.

25. (1) From and after the commencement of this Act, any law then in force or subsequently coming into force within the areas included in the Schedule to the Natives Land Act, 1913 (Act No. 27 of 1913), or any amendment thereof, or such areas as may by resolution of both Houses of Parliament be designated as native areas for the purposes of this section, may be repealed or amended, and new laws applicable to the said areas may be made, amended and repealed by the Governor-General by proclamation in the *Gazette*.

(2) Save where delay would, in the opinion of the Governor-General, be prejudicial to the public interest, no such proclamation shall be issued unless a draft of its provisions or of its

Operation
in Natal of
native code.

Governor-
General's
power to
proclaim
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native areas.

principal provisions shall have been published in the *Gazette* at least one month previously; but the omission of such publication shall not invalidate any such proclamation.

(3) Nothing in this Act contained shall affect the powers vested in the Governor-General under the Transkeian Annexation Act, 1877 (Act No. 38 of 1877), the Walfish Bay and St. John's River Territories Annexation Act, 1884 (Act No. 35 of 1884) so far as it relates to the St. John's River Territory; the Tembuland Annexation Act, 1885 (Act No. 3 of 1885), and the Transkeian Territories, Tembuland and Pondoland Laws Act, 1897 (Act No. 29 of 1897) of the Cape of Good Hope.

26. (1) Every proclamation issued by the Governor-General under the authority of this Act shall be laid upon the Tables of both Houses of Parliament within fourteen days after its promulgation if Parliament is then in ordinary session, or if Parliament is not then in ordinary session within fourteen days after the commencement of its next ensuing ordinary session, and every such proclamation shall be in operation unless and until both Houses of Parliament have, by resolutions passed in the same session, requested the Governor-General to repeal such proclamation or to modify its operation, in which case such proclamation shall forthwith be repealed or modified as the case may be, by a further proclamation in the *Gazette*.

(2) If the Native Affairs Commission established in terms of section *one* of the Native Affairs Act, 1920 (Act No. 23 of 1920), has dissented from any provision contained in a proclamation issued under section *twenty-five*, the record of, and the reasons for, such dissent shall, when the proclamation is laid upon the Tables of both Houses of Parliament as aforesaid, simultaneously be so presented to Parliament.

CHAPTER VII.

PREVENTION OF MISCONDUCT AND DISORDERS, REGULATION OF NATIVE LIVING, AND CONTROL OF CERTAIN VILLAGES AND TOWNSHIPS.

27. (1) The Governor-General may make regulations with reference to all or any of the following matters:—

- (a) the exhibition of pictures of an undesirable character in any location or native compound or in any urban location or native village constituted under the Natives (Urban Areas) Act, 1923 (Act No. 21 of 1923);
- (b) the carrying of assegais, knives, kerries, sticks or other weapons or instruments by Natives;
- (c) the prohibition, control or regulation of gatherings or assemblies of Natives;
- (d) the observance by Natives of decency; and
- (e) generally for such other purposes as he may consider necessary for the protection, control, improvement and welfare of the Natives, and in furtherance of peace, order and good government.

(2) Any such regulations may be made applicable only in any particular areas or in respect only of particular classes of persons, and different regulations may be made for different areas or in respect of different classes.

28. (1) The Governor-General may, by proclamation in the *Gazette*—

- (a) create and define pass areas within which Natives may be required to carry passes;
- (b) prescribe regulations for the control and prohibition of the movement of Natives into, within or from any such areas; and
- (c) repeal all or any of the laws relating to the carrying of passes by Natives;

Provided that no area included in the Schedule to the Natives Land Act, 1913 (Act No. 27 of 1913), or any amendment thereof, shall be included within a pass area.

(2) Such regulations may provide penalties for any breach thereof not exceeding a fine of five pounds or imprisonment with or without hard labour for a period not exceeding three months.

Proclamations to be submitted to Parliament.

General regulations.

Creation of pass areas, and control of movements of natives.

Prevention of dissemination of certain doctrines amongst Natives.

29. (1) Any person who utters any words or does any other act or thing whatever with intent to promote any feeling of hostility between Natives and Europeans shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding one year or to a fine of one hundred pounds, or both.

(2) If it appears to a magistrate on information made on oath that there are reasonable grounds for suspecting that there is upon any premises within his jurisdiction—

(a) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any such offence; or

(b) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any such offence,

he may issue his warrant directing a policeman or policemen named therein or all policemen to search such premises and to seize any such thing if found and take it before a magistrate. If any magistrate before whom any such case is brought is satisfied that it is anything which may reasonably be calculated to cause or promote any feeling of hostility between Natives and Europeans he may by writing authorize the destruction thereof or its confiscation to the Crown but no such order shall be carried into effect until a period of one month has elapsed after the date of such order and the decision of the magistrate in that behalf shall be subject to review.

(3) The Governor-General may order that, during a period specified in the order, a person convicted under sub-section (1)—

(a) if he is not a Native, and if the offence was committed in any area included in the Schedule to the Natives Land Act, 1913 (Act No. 27 of 1913), or any amendment thereof, shall not enter or be in any such area; or

(b) if he is a Native, and if the offence was committed outside any such area, shall not enter or be in any place outside any such area.

(4) Any person acting in contravention of any such order shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year and to be removed from any place where such order prohibits him from being.

(5) If any person (not being born in any part of South Africa which has been included in the Union) has been convicted of any offence under sub-section (1) of this section, the Minister may, having regard to the circumstances connected with the offence, deem such person to be an undesirable inhabitant of the Union and may, by warrant under his hand, cause him to be removed from the Union and pending removal to be arrested and detained in custody.

Control and management of certain native villages and townships.

30. The Governor-General may make regulations—

(a) for the control and management of any village or township not falling under the operation of the Natives (Urban Areas) Act, 1923, (Act No. 21 of 1923), if not less than two-thirds of its inhabitants are Natives; and

(b) for the imposition of rates or charges upon the owners of land or residents in any such village or township: Provided that such rates or charges which may be imposed upon the owners of any such land shall not exceed one and one-quarter per cent. of the value of such land in any one year.

CHAPTER VIII.

GENERAL.

Letters of exemption.

31. (1) In any case in which he may deem fit, the Governor-General may grant to any Native a letter of exemption exempting the recipient from such laws, specially affecting Natives, or so much of such laws as may be specified in such letter: Provided that no such exemption shall be granted under this section from any provision of law regulating the

ownership or occupation of land, or imposing taxation or controlling the sale, supply or possession of intoxicating liquor.

(2) Any such exemption may be made subject to any condition imposed by the Governor-General and specified in such letter.

(3) Any letter of exemption issued under any law included in the Schedule to this Act shall be deemed to have been granted under sub-section (1).

(4) Any letter of exemption granted under sub-section (1), or referred to in sub-section (3), may at any time be cancelled by the Governor-General without assigning any reason.

Penalties for breach of proclamation, rule or regulation.

32. (1) Any proclamation, rule or regulation made under the authority of this Act may prescribe penalties for a contravention thereof, or default in complying therewith.

(2) In the absence of any specific penalty for any offence under this Act or any proclamation, rule or regulation made thereunder, the court convicting any person of such offence may impose upon him a fine not exceeding twenty-five pounds, or in default of payment imprisonment for a period not exceeding three months.

(3) Different provisions may be made by proclamation, rule or regulation in respect of different localities.

Exemption from stamp duty.

33. Notwithstanding anything in any other law contained, no stamp duty or fee shall be payable in respect of any declaration made under the provisions of this Act.

Extending operation of Act.

34. The Governor-General may, by proclamation in the *Gazette*, apply *mutatis mutandis* the provisions of Chapter III. of this Act or of any portion thereof to any area or piece of land in the district of Namaqualand in the Province of the Cape of Good Hope, which has been granted, set apart, reserved or made available for occupation by persons commonly described as Hottentots or Bastards.

Interpretation of terms.

35. In this Act, and any proclamation, rule or regulation made thereunder, unless inconsistent with the context—

“customary union” means a marriage according to native law and custom ;

“house” means the family and property, rights and status, which commence with, attach to, and arise out of, the customary union of each native woman ;

“location” means and includes—

(a) any area set apart or reserved for communal occupation by Natives ;

(b) any area (other than a municipal location) set apart or reserved and made available for native occupation under separate title, together with any commonage included therein ;

(c) land acquired by Natives for tribal occupation ;

(d) any area proclaimed by the Governor-General as a location for the purposes of this Act ;

“Minister” means the Minister of Native Affairs, or any other Minister of State acting in his stead ;

“Native” shall include any person who is a member of any aboriginal race or tribe of Africa : Provided that any person residing in an area proclaimed under section *six* (1) under the same conditions as a Native shall be regarded as a Native for the purposes of this Act ;

“native commissioner” includes an assistant native commissioner ;

“partner” means any spouse of a customary union ;

“pass area” means an area defined by proclamation within which all Natives may be required to hold and carry passes.

Repeal of laws.

36. The laws mentioned in the Schedule to this Act, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Short title and commencement.

37. This Act may be cited as the Native Administration Act, 1927, and shall commence upon a date to be fixed by the Governor-General by proclamation in the *Gazette* : Provided that in such proclamation the Governor-General may exclude from application any specified part or provision of this Act, which shall thereupon not apply until brought into operation by a further proclamation in the *Gazette*.

Schedule.

LAWS REPEALED.

Province or Union.	No. and year of Law.	Title or subject of Law.	Extent of repeal.
Cape of Good Hope.	Act No. 17 of 1864.	The Certificate of Citizenship Amendment Act, 1864.	The whole.
"	Act No. 18 of 1864.	The Native Successions Act, 1864.	"
"	British Kaffraria Ordinance No. 10 of 1864.	The Native Successions Ordinance.	"
"	Act No. 37 of 1884.	The Native Locations Act, 1884.	So much as is unrepealed.
"	Act No. 39 of 1887.	The Native Registered Voters Relief Act, 1887.	In so far as it is in conflict with the provisions of this Act.
"	Act No. 25 of 1894.	The Glen Grey Act, 1894.	Sections <i>nineteen to twenty-five</i> inclusive.
"	Act No. 14 of 1905.	The Glen Grey Amendment Act, 1905.	Sections <i>one and two</i> .
Natal	Law No. 28 of 1865.	For relieving certain persons from the operation of Native Law.	The whole.
"	Law No. 26 of 1875.	The Native Administration Law, 1875.	So much as is unrepealed excepting <i>section fourteen</i> .
"	Government Notice No. 194 of 1878.	The Code of Native Law	So far as it applies to Zululand.
"	Law No. 44 of 1887.	To amend the Native Administration Law, 1875.	So much as is unrepealed excepting <i>section seven</i> .
"	Law No. 19 of 1891.	To legalize the Code of Native Law.	Section <i>two</i> .
"	Act No. 7 of 1895	To enable certain natives to dispose of immovable property.	The whole.
"	Act No. 49 of 1898.	The Courts Act, 1898.	Paragraph (e) of <i>section four</i> sections <i>thirty-seven to forty-one</i> inclusive, Chapters III and IV, and <i>section seventy-one</i> .
"	Act No. 47 of 1901.	To amend the Courts Act, 1898.	Section <i>seven</i> .
"	Act No. 1 of 1909	The Native Administration Act, 1909.	So much as is unrepealed.
Transvaal	Law No. 4 of 1885	To provide for the better administration of justice among natives.	So much as is unrepealed.
"	Law No. 3 of 1898	Relative to the contracts of native chiefs.	The whole.

Province or Union.	No. and year of Law.	Title or subject of Law.	Extent of repeal.
Transvaal	Law No. 7 of 1899	Regulating the competency of native commissioners to punish legal practitioners.	The whole.
"	Proclamation No. 35 of 1901	The Coloured Persons Exemption (or Relief) Proclamation, 1901.	"
"	Proclamation No. 28 of 1902.	The Administration of Estates Proclamation, 1902.	Sections <i>seventy</i> and <i>seventy-one</i> .
"	Ordinance No. 3 of 1902.	The Native Commissioners Jurisdiction Ordinance, 1902.	The whole.
"	Ordinance No. 28 of 1902.	The Natives Relief Ordinance, 1902.	"
"	Act No. 29 of 1907	The Native Administration Amendment Act, 1907.	"
Orange Free State	Chapter XXXVI	Regarding the tribe of Paulus Mopeli.	"
"	Chapter LVI ..	On the liquidation and distribution of Barolong Estates.	"
"	Law No. 9 of 1898	Regarding the tribe at Witzieshoek.	"
"	Law No. 26 of 1899.	The Marriage Law ..	Section <i>twenty-eight</i> .
"	Ordinance No. 2 of 1903.	The Coloured Persons Relief Ordinance, 1903.	The whole.
"	Ordinance No. 12 of 1907.	The Coloured Persons of Distinction Exemption Ordinance, 1907.	"
Union ..	Act No. 24 of 1913	The Administration of Estates Act, 1913.	Paragraph <i>(d)</i> of sub-section (1) of section <i>three</i>
" ..	Act No. 32 of 1917.	The Magistrates' Courts Act, 1917.	Sub-section (1) of section <i>one hundred and eight</i> in so far as it relates to native cases
" ..	Act No. 7 of 1924	The Native Chiefs' Jurisdiction (Transvaal and British Bechuanaland) Act, 1924.	The whole, except section <i>two</i> .