

DEPARTMENT OF NATIVE AFFAIRS.

The accompanying Draft Proclamation is published for general information in terms of sub-section (2) of section twenty-five of the Native Administration Act, 1927 (Act No. 38 of 1927).

DRAFT PROCLAMATION.

Whereas it is expedient to combat the evil of overstocking on native locations and reserves and on land held by or from the South African Native Trust established under section four of the Native Trust and Land Act, 1936 (Act No. 18 of 1936);

Now, therefore, under and by virtue of the powers conferred upon me by sub-section (1) of section twenty-five of the Native Administration Act, 1927 (Act No. 38 of 1927), read in conjunction with sub-section (1) of section twenty-one of the Native Trust and Land Act aforesaid, I do hereby proclaim, declare and make known that the following provisions shall take effect and have the force of law in any location as defined in section one of this Proclamation to which they may be applied as in section two thereof provided:—

1. In this Proclamation—

- “Cattle unit” means one head of large or five head of small stock;
- “location” means land scheduled as a native area under the Natives Land Act, 1913 (Act No. 27 of 1913), or any amendment thereof and shall include any land of which the Trust is the registered owner and land which has been transferred by the Trust to a native;
- “Minister” means the Minister of Native Affairs or any other Minister of State acting in his stead;
- “native resident” in relation to a location means a native who is lawfully living in such location and who is a registered taxpayer under the provisions of the Natives Taxation and Development Act, 1925 (Act No. 41 of 1925), as amended or who is specially exempted from the payment thereof or who pays quitrent in respect of land situate within such location; and includes any native widow who not being a taxpayer is lawfully living in such location;
- “owner” in relation to stock includes the person who has possession thereof or control thereover and “own” has a corresponding meaning;
- “stock” means cattle, horses, mules, asses, hereinafter referred to as large stock, and sheep and goats, hereinafter referred to as small stock, but shall not include any such animal which is less than six months’ old;
- “Trust” means the South African Native Trust established under section four of the Native Trust and Land Act, 1936

2. The Minister may by notice in the *Gazette*, after consultation with the inhabitants thereof and with any district or local council having jurisdiction thereover, apply the provisions of this Proclamation to any location or portion thereof.

3. (1) Upon the application of the provisions of this Proclamation to any location the Secretary for Native Affairs shall assess the number of cattle units which such location is able to carry and shall determine the standard number of cattle units which should ordinarily be kept, whether as owner or

under the native custom of “sisa” or “nqoma”, by any native resident of such location.

(2) In determining the standard number of cattle units for the purposes of sub-section (1) the Secretary for Native Affairs may allow an increased number in the case of chiefs, headmen, councillors, indunas or other persons who by reason of their rank and position in the tribe or community are regarded as entitled to special consideration.

(3) Any assessment or determination under sub-section (1) may be brought under review and varied or modified after the lapse of not less than three years from the date when such assessment was first made and thereafter at intervals of not less than three years.

(4) Any assessment and determination under sub-section (1) and any variation or modification thereof shall be published for general information in the *Gazette*.

4. (1) Within three months of any determination under section three or of any variation or modification thereof a census shall be taken of all stock within the location in such manner as the Chief Native Commissioner for the area may direct, and a similar census shall be taken annually thereafter.

(2) The Native Commissioner shall after the initial census in any location cause to be framed and maintained a register in a form to be prescribed by the Secretary for Native Affairs, of stock owned by each native resident.

(3) Should any census of stock under the provisions of sub-section (1) reveal that the number of cattle units in any location are in excess of the assessment for such location, such excess number shall be culled and eliminated in accordance with the provisions of sections five and six of this Proclamation.

5. (1) The Chief Native Commissioner shall direct what number of large and what number of small stock shall be culled and eliminated for the purposes of sub-section (3) of section four and in accordance with such directions the culling shall be effected by an officer deputed thereto by the Trust, hereinafter referred to as the culling officer.

(2) Having regard to the desirability of eliminating worthless and inferior stock the culling shall be effected on a selective basis and factors such as old age, inferiority of breed, general unfitness and physical defects shall be taken into account.

(3) So far as is compatible with the provisions of sub-section two culling shall primarily be directed against stock owned by native residents in excess of the standard determined under sub-section (1) of section three and as far as possible on a *pro-rata* basis as between such residents.

(4) The culling officer shall brand with a prescribed brand each head of culled large stock and shall ear-mark with a prescribed mark each head of culled small stock.

6. (1) When branding or ear-marking a culled animal in accordance with sub-section (4) of section five, the culling officer shall direct the owner to cause such animals within a period of three months to be slaughtered or permanently removed from the location and in due course to produce proof to his satisfaction of having done so.

(2) If at the expiry of the period of three months referred to in sub-section (1) any culled animal is still in the location, it shall be lawful for the Native Commissioner to cause such animal to be removed from the possession of the owner and to be sold without reserve at a public sale to be arranged by the Trust for the purpose.

(3) The proceeds of the sale of any animal under the provisions of sub-section (2), less any costs incurred in connection with the seizure, herding and sale thereof shall be paid by the Native Commissioner to the owner.

(4) In the event of the Trust unsuccessfully offering any culled animal for sale under the provisions of sub-section (2), the Native Commissioner may cause such animal to be slaughtered and in such case shall notify the owner of his intention to do so and inform him that he is at liberty to remove the carcase. Should the owner or his representative within three hours of the slaughter of the animal fail to claim the carcase, the Native Commissioner may dispose of it as he deems fit.

(5) It shall be a condition of the sale of any culled animal under the provisions of sub-section (2) that it shall be removed from the location by the purchaser within one week and no culled animal which has been removed from any location under the provisions of this Proclamation, shall be re-introduced into that location or introduced into any other location.

7. (1) No person who is not a native resident and who is not otherwise specially entitled thereto, shall, after any assessment and determination have been made under section *three*, keep or be in possession of any stock in any location.

(2) Any person keeping or being in possession of any stock in any location in contravention of the provisions of sub-section (1) shall be guilty of an offence, and shall upon conviction be liable to the penalties prescribed in sub-section (3) of section *eight*. The Court may, in addition to any such penalty, order that such stock shall be permanently removed by the owner beyond the borders of such location within a time to be specified in the order, and in the event of failure on the part of the owner to comply with such order the Native Commissioner may cause such stock to be taken from the possession of the owner and sold as if it were culled stock under the provisions of section *six*.

8. (1) It shall be the duty of every owner of stock in a location to which the provisions of this Proclamation have been applied to produce it for the purpose of any census under section *four* and thereafter at any reasonable time and place fixed by the culling officer.

(2) Any person who fails to comply with the provisions of sub-section (1) or who obstructs or impedes the culling officer in the taking of any census, or in the culling, branding or ear-marking of animals under the provisions of section *five* or in the execution of any other duty imposed upon him by the provisions of this Proclamation shall be guilty of an offence.

(3) Any person who is convicted of an offence under sub-section (2) shall be liable—

(a) on a first conviction to a fine not exceeding five pounds or in default of payment to imprisonment for a period not exceeding six weeks;

(b) on a second or subsequent conviction for a similar offence to a fine not exceeding fifteen pounds or in default of payment to imprisonment for a period not exceeding three months.

(4) Upon conviction of any person of failure to comply with the provisions of sub-section (1), the Court may, in addition to the penalties prescribed in sub-section (3), order that such of his stock as were not produced shall be forfeited to the Trust which may dispose thereof as it may deem fit.

9. (1) No person shall introduce any stock into a location to which the provisions of this Proclamation have been applied without a permit from the Native Commissioner and no such permit shall be issued unless the number of cattle units within such location is less than the number assessed under the provisions of section *three* and unless the Native Commissioner is satisfied that the quality of the stock to be introduced is such that they would not require to be culled under the provisions of this Proclamation.

(2) Any person introducing any stock into a location in contravention of the provisions of sub-section (1) shall be guilty of an offence and shall upon conviction be liable to the penalties prescribed in sub-section (3) of section *eight*. The Court may in addition to any such penalty, order that such stock shall be removed by the owner beyond the borders of such location within a time to be specified in the order, failing which he shall be guilty of an offence and liable to the penalties prescribed in the said sub-section (3) of section *eight*.

10. Notwithstanding the fact that the number of stock in any location to which the provisions of this Proclamation have been applied, may not be in excess of the number assessed for such location in terms of section *three* any stallion or donkey jack above the apparent age of two years, any bull above the apparent age of twelve months and any sheep or goat ram above the apparent age of six months, which, in the opinion of the culling officer, is not of sufficiently high grade for breeding purposes may be castrated by him, provided that he shall give the owner of any such animal notice of not less than fourteen days of his intention to do so.

Dept. of Native Affairs

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Draft Proclamation

to cullings of stock

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