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# Official Gazette

of the  
**Protectorate of South-West Africa**

in Military Occupation of the Union Forces

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No. 27

## PROCLAMATIONS

BY HIS HONOUR SIR EDMOND HOWARD LAGAM 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. 1 of 1920.]

WHEREAS it is desirable to make further provision for the framing of Rules of Court.

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 in section 9 (2) of the Administration of Justice Proclamation, 1919 contained, the Judge of the High Court of South-West Africa may, subject to the approval of the Administrator, frame further Rules for the conduct of the proceedings of Magistrates' Courts within the Protectorate and amend, add to or repeal any Rules of the said Courts which may be in force for the time being.
2. The Judge of the High Court of South-West Africa may, subject to the approval of the Administrator, frame Rules touching all such matters as in the Union of South Africa may lawfully be provided for by Rules of Court.
3. This Proclamation may be cited for all purposes as the "Rules of Court Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk this 2nd day of January, 1920.

E. H. L. GORGES  
Administrator.

No. 2 of 1920.]

WHEREAS certain claims have been preferred to the Protectorate Administration for losses alleged to have been sustained by non-combatants during military operations in South-West Africa in 1914 and 1915,

AND WHEREAS it is desirable to cause enquiry to be made into such claims,

NOW THEREFORE under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known that I have appointed a Commission consisting of James Collie, Esquire (who shall be Chairman); Andries Petrus Olivier, Esquire, M.P.C. and Lieutenant-Colonel Jacobus Andries Diederick Kruger, D.S.O., to enquire into, assess and make recommendations for satisfying

- (1) claims by British, Allied or Neutral subjects for losses sustained directly attributable to military action in South-West Africa during the 1914 and 1915 campaign;
- (2) claims in respect of property bona fide requisitioned or commandeered for the service of the Union Forces in the field.

AND I do hereby further declare, proclaim and make known as follows:—

The Commission shall not make recommendations in respect of claims

- (1) in which the property requisitioned or commandeered had been used for military purposes by the enemy;
- (2) in which enemy property was looted;
- (3) in which the damage done to or the loss sustained in respect of enemy property was the result of military action other than bona fide requisitioning or commandeering for the service of the Union Forces in the field;
- (4) for indirect losses sustained by any claimants, enemy or other.

To enable the said Commissioners the better to carry out the objects of their enquiry they shall have the power to summon before them witnesses, to examine such witnesses on oath, such oath to be administered by the Chairman or any member of the Commission, to call for, have access to and examine all books, documents, registers and records, to inspect property and generally to do all such things and exercise all such powers as may be necessary to enable them the better to execute their duties.

The laws and rules obtaining in the courts of the magistrates of the Protectorate shall mutatis mutandis apply to procuring the attendance before the Commission of witnesses; their examination, and the production of their books, documents, registers and records; and for that purpose the Chairman or the Secretary of the Commission shall have power to sign all such documents as may be necessary for the purpose

of the enquiry in the same manner as the magistrate or his clerk has power so to do under the rules obtaining in the magistrates' courts. Any process to be served for purposes of the enquiry shall be served as if it were process of a magistrate's court in the district of service.

Officials of the Protectorate are hereby required to render all due assistance to the Commission to enable them to execute the powers committed to them.

Any person who refuses to comply with any lawful summons or order of the Commission, or who without lawful excuse fails or neglects to comply with any such summons or order shall be guilty of an offence

and upon conviction shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

No person shall be entitled to demand payment in respect of any recommendation made by the Commission.

GOD SAVE THE KING.

Given under my hand at Windhuk this 6th day January, 1920.

E. H. L. GORE  
Administrator

## Government Notices.

The following Government Notices are published for general information.

J. E. HERBST

Secretary for the Protectorate.

Administrator's Office,  
Windhuk.

No. 3.] [2nd January, 1920.  
TARIFF FOR OFFICE OF REGISTRAR OF THE  
HIGH COURT.

The Administrator has approved of the following tariff of fees to be received under section 3 (8) of the Administration of Justice Proclamation, 1919, by the Registrar of the High Court of South-West Africa on behalf of the Administration in stamps to be affixed to the documents named:—

	£	s	d
For every summons for a defendant or witness	0	5	0
For every warrant of attorney to sue or defend	0	3	0
For every declaration, special case, first plea or subsequent pleading	0	5	0
For every notice, enforcing or setting down any case for hearing, trial, argument or judgment	0	5	0
For every affidavit	0	3	0
For every certified copy of any document not exceeding four folios	0	5	0
For every additional folio	0	1	0
For every writ or process of execution, writ of arrest, or for the attachment of the person, or of property to found jurisdiction	0	5	0
For every bond of security for restitution	0	5	0
For affixing the Seal of the Court to Commissions for examination of witnesses	0	5	0
For every order of rehabilitation or release from sequestration of an insolvent	1	0	0
For every other rule or order of Court	0	5	0
Searching for an entry, record or document:			
Through one year	0	2	0
For every additional year	0	1	0
For every petition, memorial, notice of motion, or other application to the Court, filed	0	3	0
For every certificate of completion of security on application for rehabilitation	0	5	0
On every balance sheet on application for rehabilitation	0	5	0
On bills of costs, for each £1 or fraction of £1 allowed on taxation	0	1	0
On any separate certificate of the amount at which costs have been taxed	0	1	0

The stamps in respect of search fees shall be affixed in a book to be kept by the Registrar.

No. 4.] [2nd January, 1920.  
TARIFF FOR OFFICE OF SHERIFF OF THE  
PROTECTORATE.

The Administrator has approved of the following tariff of fees in proceedings in execution of immovable property to be received under section 5 of the Administration of Justice Proclamation, 1919, by the Sheriff of the Protectorate of South-West Africa on behalf of the Administration in stamps to be affixed to the documents named:—

	£	s
On extract or certificate from debt registry	0	5
On copy of writ filed	0	5
On report of sale to Court	0	10
On plan of distribution of proceeds of sale, two pounds and ten shillings per £100 on amount received and distributed when such amount does not exceed £250, and one pound per hundred pounds in addition upon the excess of such amounts beyond £250.		
On report of account to the Court	0	10

No. 5.] [2nd January, 1920.  
TARIFF FOR THE ADMISSION OF  
PRACTITIONERS.

Under and by virtue of the powers conferred by section 11 (10) of the Administration of Justice Proclamation, 1919, the Administrator has prescribed the following tariff of fees to be paid by practitioners in accordance with the provisions of the said section:

	£	s
For admission to practise as an Advocate	10	0
For admission to practise as an Attorney	10	0
For admission to practise as a Notary Public	5	0
For admission to practise as a Conveyancer	5	0
For admission to practise as a Sworn Translator	1	0

No. 6.] [2nd January, 1920

The Administrator has approved of the Rules here appended, framed by the Judge of the High Court of South-West Africa under the provisions of section 5 of the Administration of Justice Proclamation, 1919 and of the Rules of Court Proclamation, 1920.

RULES OF THE HIGH COURT OF SOUTH WEST  
AFRICA.

1. The Rules of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa at the date of the promulgation hereof shall mutatis mutandis be of force in this Court save in so far as they are repealed, amended or added to by rules framed by the Judge of the Court.

2. Rules 270, 291, 315, 367, 375, 390, 399, 402, 403, 421, 422, 460, 467 and 483 of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa shall not be of force in this Court.
3. Where in any rule of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa the name "Cape Town" appears, the rule shall be read as though the name "Windhuk" were substituted therefor.
4. There shall for the despatch of the civil business of the Court be three terms in each year, which shall commence and end respectively as follows:—  
The first term on the first day of March and the fourteenth day of April; the second term on the first day of July and the fourteenth day of August; the third term on the twenty-first day of October and the fourth day of December.
5. Each of the periods not included in the terms of the Court shall be a vacation of such Court.
6. The Court shall sit in vacation time on such days as it may appoint for the hearing of cases for provisional sentence, motions, trial cases in which the defendant is in default, arguments on exception and criminal appeals, and for the trial of any cases which the Court may, on application, have directed to be heard and determined out of term.
7. There shall for the despatch of criminal business be two sessions in every year, which shall commence respectively on the eighth day of February and the sixteenth day of August, to be continued by adjournment as the case may require; provided that in the year 1920 the first session shall commence on the 27th day of January.
8. If the day appointed for the commencement of a term or for a sitting of the Court shall be a Sunday or a holiday, the term shall commence or the sitting shall be held on the Monday or day following; and if the day appointed for the termination of a term shall be a Sunday or a holiday, the term shall end on the Saturday or day preceding.
9. Any sitting of the Court may be held in Chambers.
10. The offices of the Court shall be open every day from nine o'clock in the morning till four o'clock in the afternoon, except on Sundays and the holidays hereinafter mentioned, and except on Saturdays, when they shall close at twelve o'clock noon.  
The said holidays shall be: New Year's Day, Good Friday, Easter Monday, Ascension Day, Victoria Day (24th day of May), Union Day (31st day of May), King's Birthday (first Monday in August), the first Monday in October, Dingaan's day (16th day of December), Christmas Day and Boxing Day (26th day of December), provided that when any of the said days falls on a Sunday, the following Monday shall be observed as a holiday; and provided that when Boxing Day falls on a Monday the following Tuesday shall be observed as a holiday.
11. Rule 134 of the Cape Provincial Division of the Supreme Court of South Africa is hereby amended by deleting the words, "such injunctions to have effect until, and during the first four days of the next ensuing Term, or for such longer time within the said Term as the said Judge shall see cause to appoint".
12. Rule 328 as amended by Rule 377 of the Cape Provincial Division of the Supreme Court of South Africa is hereby amended by deleting all words after the words "as follows" to the end, and by substituting therefor the following words:

"When the dwelling house or place of business shall be in Windhuk or within a circuit of fifty miles therefrom, seven days; when the dwelling house or place of business shall be beyond such circuit, then, in addition to the seven days already mentioned, one day for every thirty miles or part thereof beyond such circuit".

13. Rule 330 (a) of the Cape Provincial Division of the Supreme Court of South Africa is hereby amended by deleting the words, "after such appearance and within the term next after that in which the action was commenced, or in case the action shall have been commenced out of term, then within the second term after the commencement of the action" and substituting therefor the following words, "within two months after such appearance".
14. Every pleading in any illiquid cause and every special case, irrespective of the number of folios of such pleading or statement of case, must be typewritten, and must be in black record ink on foolscap paper of good quality. A margin of at least one and a half inches must be allowed for binding purposes. The Registrar is empowered to reject any pleading or statement of case which does not meet the above requirements.
15. An appeal or cross-appeal from a Magistrate's Court in a civil case shall be prosecuted so as to be set down for hearing within six weeks from the date of the order or judgment appealed from, provided that if the last ten days of such period shall not fall wholly within a term of the High Court, then the period for setting down shall be extended so as to embrace the first ten days of the next succeeding term.  
When notice of appeal or cross-appeal has been duly given either of the parties shall have the right to set down the case for hearing and for that purpose shall deliver to the Registrar and to the opposite party written notice of the date of hearing so that eight clear days shall elapse between the delivery of notice and the date of hearing.
16. After receipt by the Registrar from the Clerk of a Magistrate's Court of the records of a criminal case in which an appeal has been noted, the Registrar shall set the appeal down for hearing, and shall give notice to the Crown Prosecutor and to the accused or his attorney of the day for which the appeal is set down; provided that if the accused is undergoing imprisonment, the Registrar shall not set the appeal down unless the Judge has certified that there are reasonable grounds for appeal or unless the Registrar shall be satisfied that Counsel has been instructed to appear for the accused. The appeal shall be prosecuted on the day for which it is set down, in default whereof the appeal shall be deemed to have lapsed, unless the High Court shall see fit to make an order to the contrary.
17. The sale of all immovable property attached by process of the Court shall be held in the presence of the Sheriff in the district of Windhuk, and when the Sheriff judges it advisable to have the property put up to auction in another district, in the presence of the Magistrate of such district.
18. (1) Save as herein otherwise specially provided a witness attending the Court in any civil proceedings shall be paid an allowance towards subsistence at the following rates:—

Per diem.

Classification.

(a) A witness attending to give expert evidence or who is a member of one

of the following professions, namely, Advocate, Attorney, Notary Public, Conveyancer, Physician, Surgeon, Dentist, Chemist and Druggist, Civil Engineer, Marine Engineer, Mining Engineer, Land Surveyor, Architect, Accountant (Public), Patent Agent, Veterinary Surgeon, Professor of recognised College, Commissioned Officer of Army or Navy	£1 1 0
(b) European witnesses not falling under (a)	0 10 0
(c) Any coloured person as distinguished from an aboriginal native of South Africa, not falling under (a) or a Native African chief recognised as such by the government, not falling under (a)	0 4 0
(d) Any aboriginal native of South Africa not falling under (a) provided that a medical practitioner falling under class (a) who resides more than eighteen miles from the Court shall be paid an allowance at the rate of £1 10s (one pound ten shillings) per diem.	0 2 0

(2) Where the journey to the court is undertaken by means of the railway, post cart, public conveyance, or steamship, the actual fare shall be paid or refunded.

(3) A witness residing or sojourning more than three miles from the seat of the court and using any means of transport (including his own), but other than those defined in section two hereof, shall be paid an allowance in aid of transport expenses at the rate of sixpence (6d) per mile in the case of witnesses under classes (a), (b), and (c) of section one of this Rule and threepence (3d) per mile in the case of witnesses under class (d) for both the forward and return journey.

(4) The daily subsistence allowance shall be paid for each period of twenty-four hours involved in necessary attendance at the court or necessary absence from the place of residence of the witness (portions of a day to be counted as a whole day), including the time actually spent in travelling to and from the seat of court; provided that the days allowed for the period spent in travelling shall not exceed in any case the number of days calculated on the aggregate mileage to and from the seat of court, thirty-six miles or fractions of thirty-six miles being reckoned to the day for witnesses travelling on horseback or other means of conveyance, and eighteen miles or fractions of eighteen miles as one day for witnesses travelling on foot; provided, further, that, in case of travelling by ship or boat or other means of conveyance, in which the passage or fare includes the supply of food and sleeping accommodation, no subsistence allowance shall be payable in addition to such passage or fare.

(5) When the same person is a witness in more cases than one in the same Court on the same day, he shall be entitled to allowances as for one case only, which allowances shall be equally divided among such cases.

(6) Where two or more modes or routes of transport are reasonably available, the one entailing the least expense shall be allowed for.

(7) The Court has power to disallow the payment of witness fees in its discretion. A witness whose subsistence is provided for from any other source shall not be paid an allowance towards subsistence.

(8) Should a prisoner or detained person be required as a witness the relative prison or asylum law, regulations, or practice shall be complied with.

(9) Children under twelve years of age shall be paid at one-half only of the rates laid down in section one hereof, and a necessary guardian attendant accompanying will be entitled to payment according to the rates laid down for a witness of his class.

(10) Allowances in connection with inspections in loco shall be paid on the same bases for court attendances.

(11) Notwithstanding anything to the contrary in these regulations contained, it shall be in the discretion of the Registrar of the High Court to vary the provisions of this tariff in extraordinary or exceptional cases where the tariff would operate as a hardship.

19. Rules 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18 (a), 19, 20 and 22 of the Supreme Court of South Africa shall not be of force in this Court.
20. Notwithstanding anything contained in any rule of court to the contrary, when a commission rogatoire or letter of request is transmitted to the Administrator, accompanied, if the original is in a foreign language, by a translation in English or Dutch, and the necessary office fees or stamp to the Registrar of the High Court with an intimation that it is desirable that effect should be given to the same without requiring an application to be made to the Court by the agents of any of the parties to the action or matter in the foreign country or in the Union of South Africa, the Registrar shall take such steps as may be necessary to submit the same to the Judge in Chambers in order to give effect to such commission rogatoire or letter of request.
21. Where in any civil or commercial matter pending before a court or tribunal of a foreign country of the Union of South Africa a letter of request from such court or tribunal for service on a person in the Protectorate of South-West Africa of any process or citation in such matter is transmitted to the High Court of South-West Africa by the Administrator, with an intimation that it is desirable that effect should be given to the same the following procedure shall be adopted:—
  - (I) The letter of request for service shall be accompanied by a translation thereof in either the English or the Dutch language, and by two copies of the process or citation to be served, and two copies thereof in either the English or the Dutch language.
  - (II) Service of the process or citation shall be effected by the Sheriff or his deputy, or any person appointed thereto by the Judge of the High Court.
  - (III) Such service shall be effected by delivering to and leaving with the person to be served one copy of the process to be served and one copy of the translation (if any) thereof, in accordance with the rules and practice of the High Court.
  - (IV) After service has been effected the Sheriff or his deputy, or the person appointed thereto as aforesaid shall return to the Registrar of the High Court one copy of the process together with
    - (a) the evidence of service, which shall be by affidavit made before a justice of the peace, magistrate or duly appointed commissioner of oaths, by the person effecting the service; and
    - (b) particulars of charges for the cost of effecting such service.
  - (V) The particulars of charges for the cost of effecting service shall be submitted to the Taxing Officer of the High Court, who shall certify the correctness of the charges, or such other amount as shall be properly payable.

for the cost of effecting service. The said particulars of charges and certificate, or a copy thereof, shall be forwarded to the Administrator by the Registrar of the High Court.

- (VI) The Registrar of the High Court shall transmit to the Administrator the letter of request, together with the evidence of service, with a certificate appended thereto duly sealed with the seal of the High Court. Such certificate shall be in the form set out in the schedule of this rule.

Upon the application of the Administrator, the Judge of the High Court may make all such orders for substituted service or otherwise as may be necessary to give effect to this rule.

SCHEDULE.

I, . . . . ., Registrar of the High Court of South-West Africa, hereby certify that the documents annexed hereto are as follows:

(I) The original letter of request for service of process received from the court or tribunal at . . . . in the . . . . of . . . . in the matter of . . . . versus . . . .;

(II) The process received with such letter of request;

(III) The evidence of service upon . . . ., the person named in such letter of request.

And I certify that such service so proved and the proof thereof are such as are required by the practice and rules of the said High Court.

And I certify that the cost of effecting such service, as duly certified by the Taxing Officer of the said High Court, amounts to the sum of £ : :

Given under my hand and the Seal of the Court at Windhuk this . . . . day of . . . . 19 . . . .

Registrar of the High Court of South-West Africa.

22. No person shall be admitted and enrolled as sworn translator by the High Court unless his proficiency in the language which he intends to translate shall be duly certified in writing after examination by a competent sworn translator of not less than seven years' standing appointed for that purpose by the Judge of the High Court. Provided that it shall be competent for the Court, if within the jurisdiction there shall not be a sworn translator of sufficient standing, to appoint as examiner any person whom the Court shall find, after due inquiry, to be a fully proficient translator.

23. (1) In this rule, unless inconsistent with the context—

“document” shall mean any deed, contract, power of attorney, affidavit or other writing, but shall not include an affidavit sworn before a Commissioner of the High Court;

“authentication” shall mean, when applied to a document, the verification of any signature thereon.

(2) Any document executed outside the Protectorate shall be deemed to be sufficiently authenticated for the purpose of use in the Protectorate if—

- (a) in the case of a document executed in Great Britain or Ireland it be duly authenticated by a notary public under his signature and seal of office, or by the High Commissioner for the Union of South Africa in England or the Secretary or Assistant Secretary to the High Commissioner, or by the mayor or provost of any town under his signature and seal of office, or by the permanent head of a Government Department, the registrar of a court of justice, or the high sheriff of a county;

- (b) in the case of a document executed in any part of His Majesty's Dominions outside South Africa and the United Kingdom it be duly authenticated by the signature and seal of office of the mayor or provost of any town, or by a notary public under his signature and seal of office, or by the permanent head of any Government Department or the registrar of a court of justice in any such part of His Majesty's Dominions;

- (c) in the case of a document executed in the Union of South Africa or in any of His Majesty's Territories or Protectorates in South Africa it be duly authenticated by the signature and seal of office of any notary public, or by any magistrate, permanent head of a Government Department, registrar of a court of justice, resident commissioner, or assistant commissioner in or of the Union of South Africa or in or of any such Territory or Protectorate;

- (d) in the case of a document executed in any place outside His Majesty's Dominions (in this rule described as a foreign place) it be duly authenticated by the signature and seal of office—

(I) of a British Consul or Vice-Consul of such foreign place; or

(II) of any Secretary of State, Under-Secretary of State, Governor or Colonial Secretary of such foreign place; or

(III) of any notary public or other person in such foreign place who shall be shown by the certificate of any Secretary of State, Under-Secretary of State, Governor or Colonial Secretary thereof or of any Consul or Vice-Consul thereof in the Protectorate or in the Union of South Africa, to be duly authorized to authenticate such document under the law of that foreign place;

- (e) in the case of a document executed by any person on active service in His Majesty's Navy or Army wherever signed, it be authenticated by the signature of any commissioned officer of His Majesty's Navy or Army;

- (f) in the case of a document executed in the territory formerly known as German East Africa by any person not on active service in His Majesty's Navy or Army, it be authenticated by the signature and seal of office of any notary public, or of any magistrate, or by the permanent head of a Government Department, resident commissioner, sub-commissioner, or registrar of a court of justice in or of such territory;

- (g) the signature of any Government official affixed under sub-sections (a), (b), (c) or (f) hereof shall be accompanied by the seal of his office, save where such officer certifies that he possesses no such seal.

(3) Notwithstanding anything in this rule contained it shall be sufficient authentication of a document executed in any part of His Majesty's Dominions for use in the Protectorate which affects or relates to property not exceeding in amount or value two hundred pounds sterling if there be appended to or endorsed on such document a statement signed by a magistrate or a justice of the peace of the part of His Majesty's Dominions in which such document is executed

- (a) that the person executing such document is a person known to him; or

- (b) that two other persons (known to him) have severally testified before him that the person executing such document is a person known to each of them.

(4) An affidavit sworn before and attested by a Commissioner of the High Court beyond the confines of the Protectorate shall require no further authentication, and may be used in all cases and matters in which affidavits are admissible as freely as if it had been duly made and sworn to within the Protectorate.

(5) No power of attorney executed in the Union of South Africa or in any of His Majesty's Territories or Protectorates in South Africa outside the Protectorate of South-West Africa and intended as an authority to any person to take, defend, or intervene in any legal proceedings in a Magistrate's Court within the Protectorate of South-West Africa shall require authentication provided any such power of attorney shall appear to have been duly signed and the signature to have been attested by two competent witnesses.

(6) Nothing in this rule contained shall prevent the acceptance as sufficiently authenticated by the Court or any public office of any document which is shown to the satisfaction of the Court or the officer in charge of such public office to have been actually signed by the person purporting to have signed the same, if the Court or the said officer be satisfied that, having regard to the conditions prevailing at the time and place of signature, it was not possible without unreasonable delay or expense for such person to execute the same in the manner prescribed by this rule.

24. Where in the course of any civil action the services of an interpreter are necessary, and where such services are not rendered free of charge, then the costs of interpretation shall, unless the Court otherwise order, be costs in the cause, whether they may have been incurred at the instance of a single litigant or of both.
25. Every Commissioner of Oaths by designation under section 1 of Proclamation No. 17 of 1915 or ex officio under section 2 of the said Proclamation shall be a Commissioner of this Court for the purpose of taking affidavits.

No. 7.] [3rd January, 1920.

#### ESTABLISHMENT OF POUND AT OTAVIFONTEIN AND APPOINTMENT OF POUNDMASTER.

The Administrator has approved in terms of section two of Proclamation No. 5 of 1917 of the establishment of a pound at Otavifontein in the Magisterial District of Grootfontein and of the appointment of Friedrich Carl Albert Payne as poundmaster thereof.

No. 8.] [8th January, 1920.

The Administrator has approved of the Rule for Magistrates' Courts hereto appended, framed by the Judge of the High Court of South-West Africa under the provisions of section 1 of the Rules of Court Proclamation, 1920.

#### RULE FOR MAGISTRATES' COURTS IN THE PROTECTORATE.

M. C. 1. Item 2 of the Tariff for the Messenger of the Court contained in Table "B" of the Second Annexure to the Second Schedule of the Magistrates' Courts Act 1917, of the Union Parliament, as applied to the Protectorate by Section 9 (2) of the Administration of Justice Proclamation, 1919, is hereby amended by increasing the amount of travelling allowance (per hour or part of an hour) from 3s to 6s.

No. 9.] [8th January, 1920.

The Administrator has been pleased to make the following appointments in the South-West Africa Police

under the provisions of section 12 of the Administration of Justice Proclamation, 1919, with effect from the 1 January, 1920:

- (a) As Deputy Commissioner:  
Hedley John Kirkpatrick, D. S. O.
- (b) As Divisional Inspector:  
Christian Andries Brink van Colfer.
- (c) As Inspectors:  
Willem Diederick Fouche, C. M. G. (temporarily while commanding the Mobile Squadron)  
Daniel Petrus Wolfaardt  
Hermanus Carel du Preez  
Frank McQuoid Mason
- (d) As Sub-Inspectors:  
Pieter Frederick Swemmer  
Jacobus Haagen  
Martinus Johannes Jordaan (temporarily, while attached to the Mobile Squadron)  
James Thomas Hawkins  
Eric Randal Howe  
Hendrik Frederick Prinsloo.  
Jacob Daniel Celliers  
Cecil John St. John Pattle  
Olof Brynildsen Angus, for Quarter Master's and Paymaster's duties.

No. 10.] [9th January, 1920

#### FEEES FOR WITNESSES IN CRIMINAL PROCEEDINGS.

It is hereby notified for general information that the Administrator has been pleased, under and by virtue of the powers conferred by section 255 (2) of the Criminal Procedure and Evidence Act, 1917, of the Union Parliament, as applied to the Protectorate by section 2 of the Criminal Procedure and Evidence Proclamation, 1919, to prescribe the accompanying tariff of allowances payable to witnesses in criminal cases.

#### TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN ANY CRIMINAL PROCEEDINGS IN THE PROTECTORATE.

1. Save as herein otherwise specially provided witness shall be paid for attending court in any criminal proceedings, if resident or sojourning over three miles from the place at which he has to attend, an allowance towards subsistence the following rates:—

	Per diem.
Classification.	
(a) A witness attending to give expert evidence or who is a member of one of the following professions, namely, Advocate, Attorney, Notary Public, Conveyancer, Physician, Surgeon, Dentist, Chemist and Druggist, Civil Engineer, Marine Engineer, Mining Engineer, Land Surveyor, Architect, Accountant (Public), Patent Agent, Veterinary Surgeon, Professor of recognised College, Commissioned Officer of Army or Navy	£ 1 1
(b) European witness not falling under (a)	0 10
(c) Any coloured person as distinguished from an aboriginal native of South Africa, not falling under (a), or a native African chief recognised as such by the Government, not falling under (a)	0 4 6
(d) Any aboriginal native of South Africa not falling under (a)	0 2

2. If the witness under classes (b), (c) or (d) resides or sojourns not more than three miles from the court at which he attends, only one-half of the rates provided under section one hereof shall be paid. A witness under class (a), however, shall be paid the allowances laid down irrespective of his place of residence or distance thereof from the court, unless he be a medical practitioner residing more than eighteen miles from the court, in which case he shall be paid an allowance at the rate of £1 10s (one pound ten shillings) per diem.
3. Where the railway serves, a railway warrant will be issued entitling the witness to the issue of a railway return ticket to travel by such class as the officer issuing the warrant shall deem appropriate, having in view the class the witness might ordinarily be expected to travel by.
4. Where a witness comes from a distance of over three miles from the seat of the court, and where the railway or public conveyance is not available at all or is only available for some portion of the distance, an allowance in aid of transport expenses, whether using hired transport or personal transport may be paid at the rate of sixpence (6d per mile in the cases of witnesses under classes (a), (b) and (c) of section one of this tariff, and threepence (3d per mile in the cases of witnesses under class (d), for that portion of the forward and return journey not travelled by railway or other public conveyance. Where the railway or other public conveyance is reasonably available for such witnesses for the whole or any portion of the journey, it must be used. The actual fare disbursed on any such other public conveyance will be refunded. Receipts for such payments by the witness will have to be submitted where obtainable.
5. Children under twelve years of age shall be paid at one-half only of the rates laid down in section one or two hereof, whichever section shall apply, and a necessary guardian or attendant accompanying will be entitled to payment according to the rates laid down for a witness of his class.
6. The daily subsistence allowance shall be paid for each period of twenty-four hours involved in necessary attendance at the court or necessary absence from the place of residence of the witness (portions of a day to be counted as a whole day, including the time actually spent in travelling to and from the seat of court, provided that the days allowed for the period spent in travelling shall not exceed in any case the number of days calculated on the aggregate mileage to and from the seat of court, thirty-six miles being reckoned to the day and fractions of thirty-six miles being reckoned as one day for witnesses travelling on horseback or other means of conveyance, and eighteen miles or fractions of eighteen miles as one day for witnesses travelling on foot; provided further, that in case of travelling by ship or boat or other means of conveyance, in which the passage or fare includes the supply of food and sleeping accommodation, no subsistence allowance shall be payable in addition to such passage or fare.
7. Where two or more modes or routes of transport are reasonably available, the one entailing the least expense shall be allowed for.
8. Allowances in connection with inspections in loco shall be paid on the same basis as for court attendance.
9. Witnesses for the defence, if such payment be legally authorized, shall be paid at the same rate as witnesses for the prosecution.
10. When the same person is a witness in more cases than one in the same court on the same day he shall be entitled to allowances as for one case only.

11. The provisions of the foregoing regulations as to payment of the allowances shall not apply to public servants and railway and harbour servants attending as witnesses, where the payment would come out of public funds, but they shall receive the allowances prescribed in their respective departmental regulations or instructions.
12. The court has power to disallow the payment of witness fees in its discretion. A witness whose subsistence is provided from any other source shall not be paid an allowance towards subsistence.
13. An accused person shall not be paid subsistence or transport allowance in any case. A witness detained in prison shall be paid the full allowance applying to his (or her) class, anything to the contrary hereinbefore notwithstanding. Should a prisoner or detained person be required as a witness, the relative prison or asylum law regulations or practice shall be complied with.
14. The Secretary for the Protectorate may, in his discretion, vary the foregoing provisions in extraordinary or exceptional cases where the tariff would operate as a hardship, and make special arrangements with persons living beyond the confines of the Protectorate who are required as witnesses within the Protectorate.

No. 11.]

[9th January, 1920.

#### NOTARIES PUBLIC.

Under and by virtue of the powers conferred by section 11 (6) of the Administration of Justice Proclamation, 1919, the Administrator has been pleased to issue the accompanying regulations for notaries public and for the examination of their protocols.

#### REGULATIONS FOR NOTARIES PUBLIC AND EXAMINATION OF PROTOCOLS.

1. Every notary public shall keep a protocol containing a chronologically arranged and consecutively numbered file of the minutes of all deeds passed before him and a register in the form set out in the Schedule which shall contain an entry in chronological order of every deed passed before him. Such entry shall be made by the notary public when the deed is passed before him, and he shall subscribe thereto a declaration in the form set out in the said Schedule.
2. Every notary shall neatly and securely, to the satisfaction of the examiner of protocols, cause all minutes of deeds passed before him, together with an index of those minutes, to be bound in chronological order and numbered consecutively in volumes of equal and convenient size.
3. A notary shall not alter or mutilate any minutes filed in his protocol or extract therefrom any minutes, save in so far as may be required by any law or practice in force.
4. The minutes of deeds passed before a notary shall be written, typed, or printed on good strong and durable paper of foolscap size in good and durable ink and to the satisfaction of the examiner. No carbon copies shall be filed in the protocols.
5. Every notary shall be obliged to keep his protocol in safe custody under lock and key and wherever possible in a fire-proof safe so as to guard against a violation of the secrecy of its contents or against any alteration or mutilation thereof or any extraction therefrom, and shall take such other reasonable precautions for the safe custody thereof as may be necessary.
6. Every notary in practice at the coming into operation of these regulations shall, within one month thereafter, and every notary commencing or recommencing practice shall, within one month thereafter, give written notice to the examiner for his district or sub-district of his full name and

- business address, and if he change his address shall, within one month thereafter, give notice thereof with full particulars of the new address.
7. Every notary shall, if he leave the Protectorate with intention to cease practice or if he be removed from the roll or suspended or otherwise retire from practice, and his executor or other representatives shall in the event of his death, lodge his protocol with the Registrar of the High Court of South-West Africa or as may be otherwise required by law. In the event of a notary having ceased to practise or having no protocol at the time fixed for the examination thereof he shall deliver to the examiner a notarial certificate to that effect.
  8. The magistrate of every district shall be the examiner of the protocols of the notaries public practising within his magisterial district, and shall personally make the examination required by these regulations, provided that in any district where the magistrate is not also the receiver of revenue for the district, the magistrate shall refer to the official who acts as receiver of revenue for advice any instrument in regard to which there is any doubt as to its liability to be stamped, or where the amount of the duty payable is in dispute. In sub-districts the magistrate of the sub-district shall be the examiner, subject to the same proviso.
  9. The examiner shall, every six months, examine the protocols of every notary public practising in his district, who shall submit his protocol for such examination when so required; provided that eight days' written notice has been given by the examiner to the notary. The examination shall take place in the magistrate's office or in the notary's office, whichever shall be more convenient, and in the notary's presence or in the presence of a person who has by written notice delivered to the examiner been nominated as the notary's representative at the examination. The examination shall take place, if possible, in the months of April and October for the preceding half-years ending 31st March and 30th September respectively.
  10. The examiner shall at the conclusion of each examination endorse a certificate on the notary's register duly recording his examination, and if all the minutes filed therein are correctly and properly stamped in accordance with law he shall certify to that effect; but if any minutes therein liable to stamp duty be found unstamped or insufficiently stamped he shall forthwith take the necessary steps in accordance with law to have such minutes duly stamped and shall certify accordingly on such minutes.
  11. The examiners shall not read the contents of minutes contained in the protocols examined them except in so far as may be necessary to ascertain that the deeds have been duly attested and in case of minutes liable to stamp duty assess the amount of the stamp duty payable thereon.
  12. All knowledge obtained by any examiner in the course of an examination of protocols shall be regarded by him as information confidentially acquired in the course of his official duty and shall be treated by him accordingly.
  13. An examiner shall, on finding any material serious omissions or defects in any protocol examined by him or the minutes therein contain or any breach of duty or non-compliance with these regulations on the part of a notary record the same and particulars thereof in the certificate aforesaid, and shall immediately report the same through the Secretary for the Protectorate to the Judge of the High Court of South-West Africa.
  14. An examiner shall take steps that the protocol of a notary who dies or retires from practice shall be lodged with the Registrar of the High Court of South-West Africa or otherwise dealt with as may be required by law.
  15. Every examiner shall keep a register showing
    - (a) the names of the notaries in his district whose protocols are subject to his examination;
    - (b) the date of each examination made;
    - (c) the numbers of the deeds examined;
    - (d) copies of the certificates endorsed by him on examined protocols;
 and on the completion of each half-yearly examination shall certify to the Secretary for the Protectorate that such examination has been duly completed and shall report to the Secretary for the Protectorate whether all liability for stamp duty has been duly discharged in respect of the documents examined by him.
  16. Every examiner before entering upon his duties shall be required to take and subscribe to the following oath before a commissioner of oaths in the following form:—
 

"I swear that I shall faithfully and conscientiously perform my duties as examiner of protocols and shall keep confidential whatever may come to my knowledge in my examination of protocols and will not divulge anything concerning them further or otherwise than absolutely necessary for the due performance of my duties."

SCHEDULE.  
(Form)

No. of Deed	Date of Execution	Nature or Description	Parties to the Deed By whom	In whose favour	Consideration	Value of Stamp on Minute	Value of Stamp on Grosse

I declare the above to be the only deeds passed before me as notary public during the period from ..... to ..... (or since my admission in the Protectorate).

Date .....  
Notary Public.

This protocol register having been examined by me and compared with the minutes was found ..... remarks .....

Date .....  
Examiner of Protocols.