

PROCLAMATIONS.

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BY

HIS EXCELLENCY THE HIGH COMMISSIONER.

No. 40, 1913.—DATED 18th DECEMBER, 1913.

Preamble.

WHEREAS it is desirable to make provision for the closing of shops on one half-day in the week, either Wednesday or Saturday, and for the closing altogether of shops on Public Holidays, where such is the wish of two-thirds of the shopkeepers in any area of the Bechuanaland Protectorate;

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

1. Upon an application in writing being made to the Resident Commissioner of the Bechuanaland Protectorate praying

(1) for an order that all shops within any area of the Bechuanaland Protectorate not less than one square mile in extent may be closed on one weekday in each week, either Wednesday or Saturday as may be specified in the application, not earlier than one o'clock or later than one-thirty in the afternoon;¹ and

(2) for an order that all shops within such area may be closed at such hour or hours on every other weekday as may be specified in the application;² and

(3) for an order that all shops within such area may be closed altogether on public holidays, or for any one or more of such orders;³

the Resident Commissioner on being satisfied that the shopkeepers of not less than two-thirds in number of the shops within such area have signed the application, may, if it shall appear to him expedient so to do, make an order giving effect to the application in whole or in part and defining the limits of the said area.⁴

Publication of Order in the Gazette.

2. Such order of the Resident Commissioner shall take effect at a date named therein, being not less than one month after the making thereof, and shall before that date be published in the *Gazette* and in such other manner as to the Resident Commissioner may appear best fitted to ensure publicity for the same.

Order may be amended or revoked.

3. An order of the Resident Commissioner under this Proclamation may be amended by a subsequent order made upon the like application and subject to the like provisions and having a like effect as if it were an original order. If at any time it shall be made to appear to the satisfaction of the Resident Commissioner that the shopkeepers of not less than two-thirds in number of the shops to which an order for the time being in force under this

¹Applied to Kanye by Resident Commissioner's Notice dated 24th September, 1914; to Mauñ by Notice dated 21st June, 1921; to Molepolele by Notice dated 9th July, 1926; to Serowe by Notice dated 15th April, 1929.

²Applied to Kanye by Notice dated 11th February, 1921; to Serowe by Notice dated 15th April 1929; to Mauñ by Notice dated 12th January, 1922; and to Francistown by Notice dated 29th October, 1928.

³Applied to Kanye by Notice dated 24th September, 1914; to Mauñ by Notice dated 21st June, 1921; to Molepolele by Notice dated 9th July, 1926.

⁴Printed as amended by Proclamation No. 35 of 1916.

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Proclamation relates, are opposed to the continuance of the order, the Resident Commissioner shall revoke the said order and thereupon the order, in so far as it is revoked, shall cease to have effect, but the revocation of an order shall be without prejudice to the making of another order under this Proclamation.

Suspension of order in certain cases.

4. Whenever any day in the week is a Public Holiday, and the half-holiday in such week which is appointed under the preceding provisions of this Proclamation does not fall on the same day as such Public Holiday then it shall not be incumbent on any shopkeeper to close on such half-holiday. The operation of this Proclamation shall be suspended with reference to the half-holidays next preceding Christmas and New Year in each year.

Penalty for failure to close shops.

5. Any shopkeeper who shall fail or neglect to close his shop on any Public Holiday or other day as required by any order made under this Proclamation shall be guilty of an offence against this Proclamation and shall be liable to a fine not exceeding ten pounds for each occasion on which he fails or neglects so to do.

Liability of agents or servants.

6.(1) Where any offence for which the shopkeeper of a shop is liable under this Proclamation to a fine has in fact been committed by some agent or servant of such shopkeeper, such agent or servant shall be liable to the same fine as if he were the shopkeeper.

(2) Where a shopkeeper is charged with an offence against this Proclamation he shall be entitled upon information duly laid by him to have any agent or servant whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if after the commission of the offence has been proved the Court is satisfied that the shopkeeper has used due diligence to enforce the observance of this Proclamation and the order made thereunder and that the agent or servant committed the offence in question without the knowledge, consent or connivance of the shopkeeper, the agent or servant shall be liable to be convicted of the offence and the shopkeeper shall be exempt from any fine.

Prosecutions not to be commenced after the expiration of six weeks.

7. No prosecution for any contravention of this Proclamation shall be commenced against any person after the lapse of a period of six weeks from the date of the alleged contravention.

Exemptions in the case of Chemists and Druggists and News Agents.

8. (i) A duly licensed chemist and druggist shall not be liable to any fine under this Proclamation for supplying medicines, drugs or medical appliances on any day after the hour appointed by an order made under this Proclamation for the closing of shops on such day or on a Public Holiday, but this section shall not be deemed to authorize the shop of a chemist or druggist to be open on any day after such hour, or on a Public Holiday, save so far as may be necessary for the purpose aforesaid.¹

(ii) A shopkeeper who carries on the business of a newsagent shall not be liable to any fine under this Proclamation for selling newspapers on any day after the hour appointed by an order made under this Proclamation for the closing of shops on such day or on a Public Holiday but this section shall not be deemed to authorize the shop of a newsagent to be open on a half-holiday after such hour or on a Public Holiday save so far as may be necessary for the purpose of selling newspapers.¹

¹ Printed as amended by Proclamation No. 35 of 1916.

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Lodgers may be served.

9. Nothing in this Proclamation or in any order made thereunder shall render the occupier of any premises liable to a fine for supplying any article to any persons lodging in such premises.

Transaction of post office business not affected.

10. Nothing in this Proclamation or in any order made thereunder shall be deemed to interfere with any transaction of post office business by the occupier of any shop who is also an officer of the Post Office.

Who may be prosecuted under Proclamation.

11. It shall be sufficient in any prosecution for contravention of any provision of this Proclamation to state the name of the ostensible person by whom, or usual title of the firm, company, or association under which business is carried on.

Copy of "Gazette" to be proof of appointment of day as half-holiday.

12. Where proof is necessary of the appointment by the Resident Commissioner of a particular day as a half-holiday or of the hour of closing on other weekdays for any area the production of a copy of the *Gazette* containing the appointment of such day as a half-holiday or of the hour of closing on other weekdays for such area shall be sufficient proof thereof.¹

Half-holidays to be business days under Bills of Exchange Laws.

13. Nothing in this Proclamation shall be deemed to constitute as a non-business day within the meaning of Part I. section *one* of the Bills of Exchange Act 1893 as applied to the Bechuanaland Protectorate by Proclamation 53 of 1910, and amended by Proclamation No. 34 of 1911, a day on which any half-holiday appointed under this Proclamation shall fall, but such day shall be deemed to be a business day, the hours of business wherein shall for the purposes of the said Act terminate at one o'clock in the afternoon.

Definition of terms.

14. In this Proclamation unless the context otherwise requires—"Shop" means any building or portion of a building, booth, stall, or place where goods are exposed or offered for sale by retail and includes the place where the business of a barber is carried on. "Close" means close against the admission of any person for the purpose of trade or business for the remainder of the day. "Public Holiday" means a Public Holiday established by or appointed under Proclamation No. 34 of 1911. "Shop-keeper" means the proprietor of a business carried on in a shop.

Title and commencement of Proclamation.

15. This Proclamation may be cited for all purposes as the Shops Holiday Closing Proclamation 1913, and shall have force and take effect from the date of its publication in the *Gazette*.