

# BECHUANALAND PROTECTORATE.

No. 60 of 1923.

[Promulgated 7th December, 1923.]

## PROCLAMATION

BY HIS ROYAL HIGHNESS THE HIGH COMMISSIONER  
Entitled "The Motor Vehicle (Bechuanaland Protectorate)  
Proclamation, 1923."

Whereas it is expedient to make provision for the registration of motor vehicles and the licensing of motor-vehicle drivers and in respect of other matters relating to the use of motor vehicles in the territory 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:—

### PRELIMINARY.

1. In this Proclamation, unless inconsistent with the context—
  - "driver" shall, in respect of a motor vehicle, mean the person having control of the steering apparatus thereof;
  - "motor vehicle" shall mean any vehicle self-propelled by mechanical power and used for the purpose of conveying persons or goods, excepting any such vehicle which exceeds in weight three tons and is used or is intended to be used to haul another vehicle and excepting a steam-roller, fire-engine and ambulance;
  - "motor-cycle" shall mean any such vehicle with not more than three wheels;
  - "motor-car" shall mean any motor vehicle which is not a motor-cycle;
  - "owner" shall, in relation to a motor vehicle, mean the person having habitual possession and control thereof;
  - "police officer" shall mean an officer or trooper of the Bechuanaland Protectorate Police;
  - "public road" shall mean—
    - (a) any road proclaimed or recognized as such under the provisions of any law;
    - (b) any other road or thoroughfare which the public has the right to use, or has used without hindrance for a period of at least twelve months, provided that in any prosecution under this Proclamation the road on which the offence is alleged to have occurred shall be presumed to be a public road unless and until the contrary is proved;
  - "registering authority" shall in relation to a motor vehicle mean the resident magistrate of the district in which the owner thereof resides;
  - "urban area" shall mean any area which the High Commissioner shall hereafter proclaim by notice in the *Gazette* to be an urban area for the purpose of this Proclamation.

### CHAPTER I.

#### *Registration and Licensing of Motor Vehicles.*

2. (1) The owner of every motor vehicle in the Bechuanaland Protectorate shall within one month after the taking effect of this Proclamation register the same at the office of the registering authority and it shall be the duty of each registering authority to keep a register in the form prescribed by regulation. When registering any motor vehicle the owner thereof shall fill in and sign all forms prescribed by regulation.

(2) The Resident Commissioner shall assign to each registering authority a letter or letters or combination of letters or other mark as a distinctive mark under this Proclamation and the owner of every motor vehicle registered under this Proclamation shall cause to be affixed or painted and shall keep affixed to or painted on the vehicle the distinctive mark of the registering authority of such size and in such position as is prescribed by regulation.

(3) In registering a motor vehicle the registering authority shall cause a number to be assigned to the vehicle, and the owner thereof shall cause to be affixed to or painted on the vehicle and shall keep affixed or painted the number so assigned of such size and in such position as is prescribed by regulation. The same number shall not be assigned by the registering authority in its registers to more than one motor vehicle.

(4) The owner of every motor vehicle so registered shall obtain from the registering authority a certificate of registration which shall not require renewal and upon production of such certificate and payment of the licence fee herein after provided there shall be issued to him a licence for the calendar year or portion thereof next ensuing. Whenever it shall appear to the satisfaction of the registering authority that the certificate or licence issued to any person has been lost or destroyed it shall be competent for such authority on payment of a fee not exceeding two shillings and sixpence to issue a duplicate of such certificate or licence with the word "duplicate" written thereover.

(5) All licence fees for motor vehicles shall be due and payable on the first day of January of the calendar year for which they are issued and shall be issued for the whole of such year—provided that whenever a new licence is applied for the proportion of the annual fee to be paid shall be—

- (a) three-quarters if paid between 1st April and 30th June, both dates inclusive;
- (b) half if paid between 1st July and 30th September, both dates inclusive;
- (c) one-quarter if paid between 1st October and 31st December, both dates inclusive;

and all licences, whether issued for the whole or part of the calendar year, shall expire on the 31st of December of each year and be renewable on or before the 15th of January in every ensuing year.

(6) Subject to the provisions of this Proclamation the annual licence fees payable in respect of motor vehicles shall be as follows:

	£	s.	d.
(a) For every motor-cycle without side-car ... ..	0	10	0
(b) For every side-car or similar attachment ... ..	0	5	0
(c) For every motor-car not exceeding 1,500 lb. in weight ... ..	1	10	0
(d) For every motor-car exceeding 1,500 lb. in weight and not exceeding 2,500 lb. ... ..	2	0	0
(e) For every motor-car exceeding 2,500 lb. in weight and not exceeding 4,000 lb. ... ..	3	0	0
(f) For every motor-car exceeding 4,000 lb. in weight and not exceeding 6,000 lb. ... ..	5	0	0
(g) For every motor-car exceeding 6,000 lb. in weight... ..	10	0	0

Before issuing a new licence for a motor-car the registering authority may require production of such car or of a certificate of the weight thereof by an expert approved by such authority. In case of dispute the decision of an expert appointed by the Resident Commissioner shall be final.

(7) (a) The owner of any motor vehicle registered in the Bechuanaland Protectorate who sells or otherwise disposes thereof shall notify in writing the registering authority for the area where the vehicle was registered of such sale or disposition and give the name and address of the new owner and such notification shall be delivered at the office of the registering authority or posted to the address thereof by registered post within forty-eight hours of such sale or disposition. The purchaser or other person so becoming owner shall within fourteen days of his becoming owner register such vehicle and obtain a certificate of registration as in this section provided and upon production of such certificate and of the former owner's licence to the Government Secretary and upon payment of a fee not exceeding five shillings if the vehicle be a motor-car and two shillings and sixpence if the vehicle be a motor-cycle, there shall be issued to him a licence for the remainder of the current year.

(b) If the owner of any motor vehicle should change his address within the district in which such vehicle is registered he shall within seven days of such change notify in writing the registering authority and give his true and proper address.

(c) If the owner of any motor vehicle removes from the district in which such vehicle is registered he shall within seven days register such vehicle with and obtain a certificate of registration from the registering authority of the district into which he has removed, and his former certificate of registration shall be returned by the registering authority to the registering authority who issued the same.

(d) It shall be the duty of the registering authority to record in the register of motor vehicles kept by such authority in terms of sub-section (1) of this section any such change of ownership or change of address or removal on receipt of notification.

(8) (a) The registering authority of any area wherein are situate the business premises of any (bona fide) manufacturer of or dealer in motor vehicles may assign to that manufacturer or dealer and register a general identification mark and issue a certificate of such registration. Upon production of such certificate and payment of the sum of ten pounds, should the manufacturer or dealer be a manufacturer of or a dealer in motor-cars or motor-cars and motor-cycles, or the sum of five pounds should the manufacturer or dealer be a manufacturer of or dealer in motor-cycles only, there shall be issued to such manufacturer or dealer a licence for the calendar year or portion thereof next ensuing, and thereupon such mark as aforesaid may be used for any motor-car or motor-cycle, as the case may be, owned by him while it is on trial after its completion or is on trial by an intending purchaser and not otherwise; provided that such mark shall not be used for any one car or cycle for a period exceeding in the aggregate thirty days; provided further that any manufacturer or dealer to whom is issued a certificate of registration after the thirtieth of June in any year may obtain a licence for the remainder of the year upon payment of half the amount of the annual fees. Any licence issued under this sub-section shall not cover any motor car or cycle in the private or business use of such manufacturer or dealer.

(b) In the event of a manufacturer or dealer using a general identification mark assigned under the provisions of this section in respect of more than one vehicle the second and subsequent vehicles shall bear the general identification mark which shall be supplemented by the letters of the alphabet commencing with the letter "A." Such supplementary letters herein after called the distinguishing letters shall be of the same colour shape and size as the letters of the general identification mark.

(c) No person shall make or receive any payment for the use of any motor vehicle for which such mark as aforesaid is used.

(d) On every occasion on which the general identification mark is used on a motor vehicle the manufacturer or dealer shall keep a record of the date, time, and the distinguishing letter used on that occasion, and of the name and address of the person driving the motor vehicle on that occasion and such further particulars as may from time to time be prescribed by regulation, and that record shall be open to inspection by a police officer.

(e) If the manufacturer or dealer sells or otherwise disposes of his business, the purchaser or other person so becoming the owner thereof shall notify the registering authority who shall issue a new certificate of registration and such certificate shall bear the same general identification mark as the certificate previously issued in respect of such business; upon the production of such new certificate and of the former owner's licence the registering authority shall issue a licence for the remainder of the calendar year in the name of the purchaser or other person aforesaid without payment of any fee. The former owner's licence shall be retained by the registering authority.

### 3. Any person who on any road—

(a) uses a motor vehicle for which a licence under this Proclamation has not been obtained;

- (b) uses a motor vehicle to or on which any mark or number assigned in respect thereof under this Proclamation is not affixed or painted as prescribed;
- (c) uses a motor vehicle to or on which any mark or number though so affixed or painted is in any way obscured or has become not easily legible, except from mud, dust, or other temporary cause not in the driver's control;

shall be guilty of an offence against this Proclamation and liable on conviction to the penalties prescribed therefor:

Provided that

- (1) a person charged under paragraph (a) or (b) shall be discharged if he prove to the satisfaction of the court that he has had no reasonable opportunity of registering or taking out a licence for the motor vehicle in accordance with this Proclamation and that the motor vehicle was being driven along the road for the purpose of being so registered;
- (2) a person charged under paragraph (c) shall be discharged if he prove that he has taken all steps reasonably practicable to prevent the mark or number being obscured or becoming not easily legible;
- (3) no person shall be liable to prosecution under this section in respect of his use of a motor vehicle in the circumstances described in sub-section (8) of the last preceding section so long as the general identification mark and distinguishing letters (if any) assigned thereunder are affixed or painted upon the vehicle in such a position as is prescribed by regulation.

## CHAPTER II.

### *Registration and Licensing of Drivers of Motor Vehicles.*

4. (1) No person shall drive a motor-car or motor-cycle unless he holds a driver's licence under this Proclamation to drive a motor car or a motor-cycle as the case may be. No person shall employ, or permit any other person to drive a motor vehicle unless that other person be duly licensed. A person whose driver's licence has been suspended under this Proclamation shall during such suspension be deemed for the purposes thereof to be unlicensed.

(2) For the purposes of the licensing of drivers under this Proclamation the Resident Commissioner shall if satisfied that a proposed licensee—

- (a) has a good knowledge of the rules of the road and is competent to drive and control a motor-car a motor-cycle or a motor-cycle with side-car (according as the application is for a licence to drive a motor-car or motor-cycle or motor-cycle with side-car);
- (b) is not disqualified under the provisions of this Proclamation;
- (c) has attained the age of fourteen years if the licence is to drive a motor-cycle or seventeen years if it be to drive a motor-car;
- (d) is not disqualified in any Province of the Union of South Africa; and
- (e) is not suffering from any physical defect which in the opinion of the Resident Commissioner would render such proposed licensee incapable of effectively driving and controlling a motor vehicle without endangering public safety;

grant a certificate of competence accordingly, upon production of which to the registering authority and upon payment of a licence fee of five shillings if the motor vehicle be a motor-cycle and ten shillings if the motor vehicle be not a motor-cycle there shall be issued to the person named in the said certificate a licence in terms of such certificate which licence shall not require renewal but shall be subject to the provisions of this Proclamation relative to suspension or disqualification. Such licence while in force shall entitle the owner thereof to drive throughout the Bechuanaland Protectorate motor-cars or motor-cycles (as the case may be) but the same licence shall not entitle a person to drive both motor-cars and motor-cycles. It shall be the duty of the registering authority to keep a register of all persons licensed in the form prescribed by regulation.

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(3) Any police officer in uniform may demand from any person driving a motor vehicle the production of a driver's licence under this Proclamation and any person who fails, when demand is so made, to produce such licence within seven days at a police station and explain that the licence is so produced in compliance with the demand of a police officer, and name the place where such demand was made, shall be guilty of an offence against this Proclamation.

It shall be the duty of the officer in charge of the police station where such licence is produced forthwith to notify the police of the district where such demand was made that such demand has been complied with.

(4) A temporary licence may, on payment of a fee of one shilling in the case of a motor-cycle and two shillings in the case of a motor-car, be issued from time to time to any person bona fide learning to drive a motor-cycle or a motor-car; provided that a person learning to drive a motor-car shall do so under the supervision of a licensed driver. Such licence shall entitle the holder to drive for a period not exceeding thirty days.

5. The owner of any motor vehicle who holds an unexpired licence or licences entitling him to drive such vehicle within any Province of the Union of South Africa or any part of Southern or Northern Rhodesia may drive such vehicle (otherwise than for hire) in the Bechuanaland Protectorate for a continuous period not exceeding two months, without registering the same or obtaining a motor vehicle or driver's licence in connection therewith in the Bechuanaland Protectorate, even though any such licence or licences held by him should expire during such two months; provided that he shall on first entering the Bechuanaland Protectorate have submitted such licence or licences during the currency thereof, to the first Resident Magistrate, or Assistant Resident Magistrate on his route for him to endorse and affix the date-stamp thereon, and provided further that in any proceedings taken under this Proclamation the burden of proving that such owner holds such licence or licences as aforesaid and has not used such vehicle in the Bechuanaland Protectorate for a period exceeding two months shall lie upon such owner; and provided always that the driver's licence of any such owner shall be subject to the provisions of this Proclamation relative to suspension endorsement or disqualification.

6. (1) Any court before which a person is convicted of an offence against or contravention of any of the provisions of this Proclamation or of an offence under any other law in respect of circumstances relating to the driving of a motor vehicle—

- (a) may if the person convicted hold a driver's licence under this Proclamation, suspend that licence for such time as the court thinks fit; and
- (b) may if the person convicted do not hold a driver's licence under this Proclamation declare him disqualified for obtaining such a licence for such period as the court thinks fit; and
- (c) shall cause particulars of the conviction and of any order or declaration of the court under this section to be endorsed upon the licence (if any) and a copy of those particulars to be transmitted to the registering authority.

(2) Any person so convicted shall, if he hold a driver's licence under this Proclamation, produce the licence within a reasonable time for purposes of endorsement as aforesaid and if he fail so to do, he shall be guilty of an offence against this Proclamation.

(3) A suspension of a licence or a declaration of disqualification under this section shall be deemed to be part of the sentence passed upon any person convicted as aforesaid. If upon appeal the suspension or disqualification be set aside or the period thereof reduced the endorsement made under this section upon the licence shall by the court which passed the sentence, be deleted or (as the case may be) modified to correspond with the order of the court which determined the appeal. A copy of such order shall further be transmitted by the first-mentioned court to the registering authority in order that the particulars of endorsement transmitted under sub-section (1) be cancelled or modified (as the case may be).

7. Any person who, during the period of suspension of his driver's licence or while disqualified under this Proclamation from obtaining a driver's licence or while suspended or disqualified in any Province of the Union of South Africa or any part of Southern or Northern Rhodesia applies for or obtains a driver's licence or any person who, after his licence has been endorsed under this Proclamation, applies for or obtains a driver's licence without giving particulars of the endorsement shall be guilty of an offence against this Proclamation and any such licence issued to him shall be void and he shall be deemed to be unlicensed.

### CHAPTER III.

#### *Miscellaneous.*

8. Any person who fabricates or fraudulently alters any mark or number affixed to or painted on a motor vehicle under this Proclamation, or who fabricates or fraudulently alters any licence issued under this Proclamation or who knowing that the mark or number so affixed to or painted on a motor vehicle has been fabricated or fraudulently altered uses that vehicle or lends, lets or permits the same to be used by any other person or knowing that a licence has been fabricated or fraudulently altered uses that licence or lends or permits the same to be used by any other person, and any person who impersonates any licensed driver shall be guilty of an offence against this Proclamation.

9. Whenever, owing to the presence of any motor vehicle upon or near a public road, an accident occurs to any person, animal, or vehicle, it shall be the duty of the driver of the motor vehicle and the person in charge of such animal or vehicle to stop the same and every such driver or person and any other occupant of such motor vehicle or vehicle shall give to any person requiring the same his name and address and, if known to him, the name and address of the owner of and the mark and number affixed to or painted on the motor vehicle. Any person who fails to comply with the provisions of this section shall be guilty of an offence against this Proclamation.

10. The driver of a motor vehicle shall, when meeting a horse or mule with a rider or a vehicle drawn by horses or mules upon any road, on receiving a call or signal from the rider of the horse or mule or the driver of the vehicle, stop at a sufficient distance to avoid danger, and shall, if overtaking such rider or vehicle, on receiving such call or signal, slow down, and in either case, if the road be upon a hillside or embankment, he shall, on being so required by call or signal, take that side of the road next to the downward slope. Any driver of a motor vehicle failing to comply with the provisions of this section shall be guilty of an offence against this Proclamation.

11. (1) Where with respect to any public road or portion thereof the Resident Commissioner shall have prescribed by notice in the *Gazette*, which he is hereby empowered to issue under this Proclamation, a rate of speed which may not be exceeded on such road or portion, as the case may be, and shall have caused to be affixed and kept affixed and legible at each end of such portion and at suitable places along such public road such notices or signs, warning owners of the maximum rate of speed prescribed thereon so placed, and of such size shape lettering design and colour as may be defined by regulation under this Proclamation, then no person shall drive a motor vehicle upon such public road or portion, as the case may be, at a speed exceeding the rate prescribed as aforesaid.

(2) No person shall in any event drive a motor vehicle on a public road within any urban area at a speed exceeding 20 miles an hour.

(3) Any person who contravenes any provision of this section shall be guilty of an offence against this Proclamation.

(4) No person shall be convicted of a contravention of any provision of this section—

- (a) unless notice in writing of the intended prosecution has been given to him or to the registered owner of the motor vehicle within a period not exceeding seven days after the offence was committed;
- (b) upon the evidence as to the rate of speed of one person only;
- (c) upon evidence not supported by measurements as to time and distance.

12. Notwithstanding anything in the preceding section contained any person who drives a motor vehicle upon a public road—

- (a) recklessly or negligently, or while under the influence of intoxicating liquor; or
  - (b) at a speed or in a manner which is dangerous to the public regard being had to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is actually at the time thereon;
- shall be guilty of an offence against this Proclamation.

Nothing in this section contained shall be deemed to prohibit the prosecution of such a person for any other offence against the common or statute law arising out of the same facts.

13. (1) Every driver of a motor vehicle which is either proceeding along or stationary upon a public road shall, during the period between half an hour after sunset and half an hour before sunrise, keep a lamp or lamps upon the vehicle constructed and so placed thereon as to exhibit a light or lights as prescribed by regulation.

(2) Every driver of a motor vehicle shall keep thereon in such position as is prescribed by regulation a bell, whistle, horn, or other apparatus, capable of giving audible and sufficient warning of the approach or position of the vehicle.

(3) The driver of any motor vehicle shall by means of such apparatus give sufficient and audible warning of his approach at such times and places as may be necessary for the public safety.

(4) Every motor vehicle shall be provided with an efficient silencer and the silencer shall be in operation within any urban area.

(5) Every motor-car if it exceeds in weight unladen six hundred pounds must be capable of being worked both forwards and backwards.

(6) Every motor vehicle shall be provided with at least two independent brakes in good working order each to be capable of controlling the vehicle.

(7) Any driver of a motor vehicle who fails to comply with or drives a vehicle which does not conform to any of the provisions of this section shall be guilty of an offence against this Proclamation.

(8) No person shall be convicted of an offence under this section unless notice in writing of the intended prosecution was sent to him or the registered owner of the motor vehicle within a period not exceeding seven days after the offence was committed.

14. Every person in or on a motor vehicle upon a public road who fails upon the demand of a police officer in uniform to give to him such information as the said person is able as to the name and address of the driver of the motor vehicle and of the owner thereof shall be guilty of an offence against this Proclamation.

15. Any person who without the knowledge or consent of the owner or person in lawful charge of any motor vehicle—

- (1) rides in or drives the same;
- (2) sets the machinery thereof in motion;
- (3) places a motor vehicle in gear;
- (4) in any way interferes with the machinery accessories or parts of any motor-car or motor-cycle;

shall be guilty of an offence against this Proclamation.

16. The Resident Commissioner may by notice in the *Gazette* and by such notices or signs as are described in section eleven affixed as therein provided prohibit or restrict the use of motor vehicles upon any public road or part thereof. Any person who

drives a motor vehicle in contravention of any such prohibition or restriction shall be guilty of an offence against this Proclamation.

Provided that no such prohibition or restriction shall take effect until the expiry of one week after notice thereof has been published in the *Gazette*.

17. (1) Any person guilty of an offence against this Proclamation or contravening any provision thereof or any regulation thereunder shall, on conviction, if no penalty is specially provided for such offence or contravention, be liable in addition to being dealt with under the provisions of section *six* of this Proclamation—

- (a) in respect of a first offence to a fine not exceeding five pounds;
- (b) in respect of a second offence to a fine not exceeding ten pounds;
- (c) in respect of a third or subsequent offence to a fine not exceeding fifteen pounds or to imprisonment without the option of a fine for a period not exceeding three months or to both such fine and imprisonment.

(2) In default of payment of any fine imposed under this Proclamation or any regulation thereunder the offender may be sentenced, in addition to any other period of imprisonment which may be lawfully imposed, to a period of imprisonment—

- (i) in the case mentioned in paragraph (a) of sub-section (1) not exceeding one month;
- (ii) in the case mentioned in paragraph (b) of sub-section (1) not exceeding two months;
- (iii) in the case mentioned in paragraph (c) of sub-section (1) not exceeding three months;

unless such fine be sooner paid.

(3) The imprisonment imposed shall be with or without hard labour as the court which passes sentence may direct.

18. (1) The High Commissioner may by notice in the *Gazette* make alter or rescind regulations, not inconsistent with the provisions of this Proclamation in respect of any matters which this Proclamation specifically provides may be prescribed by regulation, and generally for the better carrying out of the objects and purposes of this Proclamation.

(2) The regulations may provide penalties for any contravention thereof or failure to comply therewith, not exceeding the penalties mentioned in section *seventeen* in respect of first, second, third or subsequent offences respectively.

19. This Proclamation may be cited for all purposes as the Motor Vehicle (Bechuanaland Protectorate) Proclamation 1923, and shall have force and take effect from the first day of January 1924.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Third day of December One thousand Nine hundred and Twenty-three.

ARTHUR FREDERICK,  
High Commissioner.

By Command of His Royal Highness the  
High Commissioner.

H. J. STANLEY,  
Imperial Secretary.