

## BECHUANALAND PROTECTORATE.

No. 72 of 1941.

(Promulgated 2nd January, 1942.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Bechuanaland Protectorate Shop Hours  
Proclamation, 1941.

Whereas it is expedient to amend and consolidate the law regarding shop hours and the conditions of employment in shops in the Bechuanaland Protectorate (hereinafter referred to as "the Territory"):

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

1. (1) The Resident Commissioner may by Notice in the *Gazette* declare one or more or all of the provisions of this Proclamation to apply, as from a date specified in such Notice, to all or any specified kinds of shops in any defined area in the Territory.

(2) Before publication in the *Gazette* of a Notice in terms of sub-section (1) the Resident Commissioner shall cause to be published in the *Gazette* a preliminary Notice—

(a) stating the area which it is proposed to define in such first mentioned Notice and the provisions of this Proclamation which it is proposed to apply and the hours of business which it is proposed to fix; and

(b) calling upon all interested persons who have any objections to the proposed provisions of such first mentioned Notice to lodge their objections in writing with an officer mentioned in the preliminary Notice within a specified time.

(3) The Resident Commissioner may by like procedure cancel or amend any Notice published under this section.

(4) The Resident Commissioner may by like procedure suspend in respect of any defined area the operation of one or more or all of the provisions of this Proclamation.

**Definitions.** 2. In this Proclamation, unless inconsistent with the context—

“ employer ” means any person carrying on business in a shop, or conducting an office, who employs or provides work for any person in or in connection with such shop or in such office and remunerates or expressly or tacitly undertakes to remunerate him, or who permits any person whatsoever in any manner to assist him in the carrying on of his business in such shop or the doing of the work performed in such office; and “ employ ” and “ employment ” have corresponding meanings;

“ open ” in relation to a shop, means open for the admission of a person for the purpose of selling or supplying to him in such shop any goods or merchandise, or for the purpose of taking an order, or for the admission of a person for the purpose of hairdressing, shaving or other similar purpose, or for the display of samples to a person, but does not apply to commercial travellers and their samples;

“ public holiday ” means any day appointed as a public holiday by the High Commissioner in terms of Proclamation No. 70 of 1938;

“ shop ” means any building or portion thereof, structure, room, market stall, tent, booth, vehicle or any place which is used for the sale therein, thereon or therefrom of goods or merchandise, or for the display of samples, and includes a hairdresser's or barber's saloon, but does not include railway refreshment rooms, passenger trains, railway book-stalls, commercial travellers' sample rooms, or places licensed to sell intoxicating liquors for consumption on the premises, or restaurants;

“ shop assistant ” means any employee or person employed in or about a shop, but does not include any person solely employed as caretaker, cleaner, domestic servant or any person solely employed for the purpose of delivery to customers of goods and merchandise purchased in such shop.

3. (1) Except as provided in section *four* <sup>Normal</sup> of this Proclamation, no person shall open or <sup>hours</sup> keep open any shop, and no person shall in or <sup>during</sup> from any shop sell or supply any goods or <sup>which</sup> merchandise, or take any order, or display any <sup>shops</sup> samples, and no auctioneer, hawker or pedlar <sup>etc.,</sup> shall carry on business— <sup>may be</sup> <sup>kept</sup> <sup>open</sup>

- (a) on any Sunday or public holiday;
- (b) later than 5.30 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays;
- (c) later than 1 p.m. on Saturdays.

(2) No person shall open or keep open any hairdresser's or barber's saloon—

- (a) on any Sunday or public holiday;
- (b) except between the hours of 8 a.m. and 6 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, and the hours of 8 a.m. and 1 p.m. on Saturdays.

(3) The District Commissioner shall have the power—

- (a) to fix another weekly early closing day in lieu of Saturday; in such cases the provisions of this Proclamation applying to Saturday shall be read as applying to such other appointed day; and
- (b) to extend the hour of closing to 6.30 p.m. on any other one day except Saturday per week:

Provided that the hour of closing is not later than 4.30 p.m. on any other one day except Saturday during the same week.

(4) On the twenty-fourth day of December such day not falling on a Sunday, shops shall be permitted to be open until 10 p.m.:

Provided that when such day falls on a Sunday the permission shall apply to the preceding day.

4. (1) The Resident Commissioner may, by <sup>Exemp-</sup> Notice in the *Gazette*, allow certain types of <sup>tions.</sup> shops to be open for sale of such goods on such days and during such hours outside normal hours in such areas as are specified in the Notice.

- (3) Nothing in this Proclamation shall—
  - (a) apply to any bazaar or sale of work for charitable purposes from which no private profit is derived, nor to the hawking or peddling of newspapers, nor to coffee stalls, nor to the business of

undertaker, nor to the sale by a bona fide farmer or market-gardener on any land occupied by him for farming purposes of any produce raised by him on that land, nor to the hawking or peddling of such produce by such persons aforesaid, nor to those holding hawkers' licences for the purpose of buying or trading farm produce;

- (b) be deemed to prohibit the manufacture of bread or breadstuffs, the reception, storage and treatment of milk and milk products, the reception for storage of fish, meat, poultry and game, or the printing of newspapers, or the employment of persons for such purposes at any time during the day or night;
- (c) apply to the delivery of ice to hospitals and nursing institutions or in case of sickness to private persons;
- (d) apply to the sale before midnight of programmes, catalogues or refreshments at any theatre, concert hall or other place of amusement during any performance.

Special provisions regarding public holidays.

5. Notwithstanding anything in this Proclamation contained, if any Sunday immediately precedes or follows a public holiday, or if one public holiday succeeds another, it shall be lawful for bakers, butchers, fish-mongers, ice-mongers and poulterers to keep open their shops and sell thereat and deliver therefrom bread, meat, fish, ice, poultry and game until 9 a.m. on the second and following consecutive holidays.

Limits as to hours of employment.

6. (1) No person shall employ any shop assistant—

- (a) for more than forty-seven and a half hours in any one week, excluding meal hours, except in the cases specified in section *seven* of this Proclamation;
- (b) for more than eight and a half hours in any one day, excluding meal hours, to be completed within ten hours of the commencement of such employee's work;
- (c) for more than five hours without an interval of at least one hour for a meal;
- (d) for more than six days in any one week, except as provided in section *seven* of this Proclamation, or in the case of shops referred to in section *four* of this Proclamation;

(e) after 1 p.m. on more than five days in any one week.

(2) Save as provided in sections *four* and *seven* of this Proclamation, no person shall employ any shop assistant whose salary does not exceed £540 per annum—

- (a) on a Sunday or public holiday;
- (b) later than 5.30 p.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays;
- (c) later than 1 p.m. on Saturdays;
- (d) of either sex under eighteen years of age for more than seven hours in any one day confined within a period of ten hours.

7. For the purpose of stocktaking or emergency work which cannot be done during the usual hours, employees may be employed beyond the hours specified in section *six* of this Proclamation: Exception: for stock-taking.

Provided that the number of hours for which they are so employed shall not exceed fifty per annum.

8. (1) Every employer shall grant to every employee employed by him, to whom the provisions of this Proclamation apply, in respect of each period of twelve months' employment with him, and not later than two months after the termination of the said period, leave of absence on full pay of not less than eighteen consecutive days: Paid leave.

Provided that—

- (a) by mutual agreement between the employer and employee such leave may be accumulated by the employee and taken in a consecutive period after two years' continuous service;
- (b) if any public holiday falls within the period of such leave, such holiday shall be added to the said period as a further period of leave of absence on full pay;
- (c) the employer may fix the time of leave for the different employees with reasonable regard to the exigencies of his business:

Provided further that if with the consent of the employer the employee wishes to take shorter periods of leave than eighteen consecutive days the District Commissioner may authorise such periods of leave amounting in the aggregate to eighteen days.

(2) The employer shall pay to an employee to whom leave is granted under sub-section (1) his pay in respect of the period of leave not later than the last working day before the commencement of the said period.

(3) Upon termination of employment the employer shall pay to the employee his full pay—

(a) in respect of any period of leave which has accrued to him but was not granted before the date of termination of the employment; and

(b) for one and a half days in respect of each completed month of employment with the employer after the date on which he last became entitled to leave in terms of sub-section (1), or in the case of an employee who has been employed for less than twelve months, after the date of commencement of his employment.

(4) Any period during which an employee—

(a) is on leave in terms of sub-section (1);

(b) is absent from work on the instructions or at the request of the employer;

(c) is absent from work owing to illness; shall be deemed to be employment for the purposes of sub-sections (1) and (3):

Provided that the provisions of paragraph (c) shall not apply in respect of any period of absence of more than three consecutive days, if the employee fails, after a request for such a certificate by the employer, to submit to the employer a certificate by a medical practitioner that he was prevented by illness from doing his work, or in respect of that portion of any total period of absence during any twelve months of employment which is in excess of thirty days.

(5) Any amount paid to an employee in terms of sub-section (2) or sub-section (3) shall be calculated at the rate of pay which the employee was receiving immediately prior to the date upon which the leave became due or his employment terminated, as the case may be.

(6) In this section the expression "employer" includes—

(a) in the case of the death of an employer, the executor of his estate, or his heir or legatee; and

(b) in the case of the insolvency of an employer or the liquidation of his estate, or the transfer or sale of his business, the trustee or liquidator or the new owner of the business,

if such executor, heir, legatee, trustee, liquidator or new owner continues to employ that employee.

(7) For the purposes of this section employment shall be deemed to commence from—

(a) the date on which the employee entered the employer's service; or

(b) the date on which an employee who had, in terms of Proclamation No. 67 of 1937, been granted leave of absence on full pay, became entitled to such leave in terms of the said Proclamation,

whichever may be the later date.

(8) Subject to the provisions of sub-section (3), no employer shall agree with an employee to pay, or pay to him, any amount in lieu of leave.

9. Any District Commissioner or other Administrative Officer, Officer of the Police, or any other person appointed by the Resident Commissioner may, for the purpose of ascertaining whether the provisions of this Proclamation are being complied with, without previous notice, at any time enter any premises whatsoever, and may, while he is upon or in the premises or at any other time, question any person who is or has been upon or in the premises, in the presence of or apart from others; and any person who in any way obstructs or hinders any officer or person aforesaid in the exercise of his powers under this section or who fails or refuses to answer to the best of his knowledge any question put to him as aforesaid or who knowingly gives a false answer to any such question shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds or in default of payment to imprisonment for a period not exceeding one month. Inspection.

10. Any person who contravenes any of the provisions of this Proclamation in respect of which no penalty is otherwise provided shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty-five pounds or in default of payment to imprisonment for a period not exceeding two months, or to both such fine and such imprisonment. Penalties.

Penalties  
in the  
case of  
companies,  
etc.

11. Where any offence against or contravention of the provisions of this Proclamation is alleged to have been committed in respect of any shop owned by any individual or by any joint stock company, firm, syndicate or partnership, then in the case of an individual that individual, and in the case of a joint stock company the managing director or any director thereof, and in the case of any firm, syndicate or partnership any member thereof, shall be liable to the penalties provided in this Proclamation.

Repeal of  
laws.

12. The following laws are hereby repealed:—

Proclamation No. 40 of 1913 except in so far as it may apply to the provisions of sub-section (7) of section *eight* of this Proclamation;

Proclamation No. 35 of 1916; and  
Proclamation No. 67 of 1937.

Short title  
and com-  
mencement.

13. This Proclamation may be cited as the Bechuanaland Protectorate Shop Hours Proclamation, 1941, and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Twenty-seventh day of December, One thousand Nine hundred and Forty-one.

HARLECH,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

H. LESTER SMITH,  
for Administrative Secretary.