

ROAD TRAFFIC ACT
(Cap. 69:01)

ROAD TRAFFIC (USE OF MOBILE PHONES) REGULATIONS, 2005
(Published on 24th June, 2005)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Use of mobile phones in motor vehicles on road
4. Penalties

IN EXERCISE of the powers conferred on the Minister of Works and Transport by section 130 of the Road Traffic Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Road Traffic (Use of Mobile Phones) Regulations, 2005. Citation
2. In these Regulations unless the context otherwise requires — Interpretation
“hands-free kit” means an instrument which is specially designed to be affixed in a motor vehicle in such a way that a driver can use a mobile phone or an interactive communication device without holding it by hand;
“interactive communication device” means a device used for providing access to the internet, sending or receiving oral or written messages, facsimile documents, still or moving images whilst driving;
“mobile phone” means a portable device which is used as a normal phone;
“two-way radio” means any wireless telegraphy apparatus which is designed or adapted for the purpose of transmitting and receiving spoken messages.
3. (1) No person shall, while driving a motor vehicle on a road, use — Use of mobile phones in motor vehicles on road
(a) a hand-held mobile phone;
(b) a two-way radio; or
(c) a hand-held interactive communication device, unless he or she uses a hands-free kit.
(2) No person shall enable another person, while that other person is driving a motor vehicle on a road, to use —
(a) a hand-held phone;
(b) a two-way radio; or
(c) a hand-held interactive communication device, unless that other person uses a hands-free kit.
(3) No person shall, while instructing or supervising a holder of a provisional driving licence, use —
(a) a hand-held mobile phone;
(b) a two-way radio; or
(c) a hand-held interactive communication device, at a time when the holder of a provisional driving licence is driving a motor vehicle on a road unless the person uses a hands-free kit.

(4) A person does not contravene this regulation if, at the time of the alleged contravention —

- (a) he or she was using the mobile phone or other device to call the police, fire, ambulance or other emergency service;
 - (b) he or she was acting in response to a genuine emergency;
 - (c) it was unsafe or impracticable for him or her to cease driving in order to make or receive the call or, in the case of a contravention of paragraph (3), for the holder of a provisional driving licence to cease driving while the person instructing or supervising him or her was making or receiving the call;
 - (d) he or she was using a two-way radio in a vehicle for —
 - (i) fire-fighting services;
 - (ii) ambulance, rescue or disaster services; or
 - (iii) any other emergency services;
 - (e) he or she was a police officer, a peace officer or a member of the Botswana Defence Force or the Local Police Service using a two-way radio while driving a motor vehicle in execution of his or her duties.
- (5) For the purposes of this regulation —
- (a) a mobile phone or other device is to be treated as hand-held if it is, or must be, held by hand at some point during the course of making or receiving a call or performing any other interactive communication function;
 - (b) a person instructs or supervises the holder of a provisional driving licence if he or she does so pursuant to section 41 of the Road Traffic Act.

4. Any person who contravenes these regulations commits an offence, and is liable to a fine not exceeding P200 or to imprisonment for a term not exceeding three months, or to both.

MADE this 17th day of June, 2005.

L.E. MOTSUMI,
Minister for Works and Transport.