

MOTOR TRAFFIC ORDINANCE 1928-1941. ⁽¹⁾

An Ordinance to provide for the Registration of Motor Vehicles and the Regulation of Motor Traffic.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Motor Traffic Ordinance 1928-1941*. ⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*. ⁽¹⁾

Commencement.

(1) The *Motor Traffic Ordinance 1928-1941* comprises the *Motor Traffic Ordinance 1928*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwlth. Gaz.</i>	Date on which took effect.
<i>Motor Traffic Ordinance 1928</i> (No. 2 of 1928)	24.1.1928	26.1.1928	2.4.1928 (<i>N.G. Gaz.</i> of 29.2.1928)
<i>Motor Traffic Ordinance 1933</i> (No. 7 of 1933)	22.3.1933	6.4.1933	2.4.1928 (Sec. 2, <i>Motor Traffic Ordinance 1933</i>)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Motor Traffic Ordinance 1936</i> (No. 10 of 1936)	26.2.1936	15.6.1936	30.12.1938 (<i>N.G. Gaz.</i> of 15.10.1938)
<i>Motor Traffic Ordinance</i> (No. 2) 1936 (No. 32 of 1936)	5.8.1936	14.11.1936	5.8.1936 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 485)
<i>Motor Traffic Ordinance 1937</i> (No. 10 of 1937)	3.3.1937	22.6.1937	3.3.1937 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 55)
<i>Motor Traffic Ordinance</i> (No. 2) (No. 28 of 1937)	25.8.1937	31.12.1937	30.12.1938 (<i>N.G. Gaz.</i> of 15.10.1938)
<i>Motor Traffic Ordinance 1938</i> (No. 26 of 1938)	24.8.1938	30.11.1938	24.8.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 148)
<i>Motor Traffic Ordinance 1941</i> (No. 2 of 1941)	22.4.1941	31.7.1941	22.4.1941 (<i>Laws of T.N.G.</i> , Vol. XV, p. 119)

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Parts.

3. This Ordinance is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Offences.

Part III.—Penalties.

Part IV.—Miscellaneous.

Repeal.

4. The *Motor Vehicles Regulation Ordinance, 1919* and the *Motor Vehicles Regulation (Amendment) Ordinance 1920* are repealed.

Definitions.

5. In this Ordinance, unless the contrary intention appears—

“Court” means a District Court;

“Driver” means any person driving a motor vehicle and includes any person riding a motor cycle, and “drive” includes “ride”;

“Licence” means a licence under the Regulations;

“Licensed” means licensed under the Regulations;

“Motor vehicle” means any motor car, motor carriage, motor cycle, motor lorry, motor omnibus, motor tractor or other vehicle propelled upon public streets wholly or partly by any volatile spirit or by steam, gas, oil, or electricity, or by any means other than human or animal power, and includes a trailer, but does not include any vehicle used on a railway or tramway;

“Owner”, in relation to a motor vehicle which is the subject of a hire-purchase agreement, means the person in possession of the motor vehicle under that agreement;

“Public motor vehicle” means a motor vehicle used for carrying passengers for hire or reward;

“Public motor vehicle licence” means a public motor vehicle licence under the Regulations;

“Public street” means any street, road, lane, thoroughfare, footpath, or place open to, or used by, the public, and includes an aerodrome specified by the Administrator by notice⁽²⁾ in the *New Guinea Gazette*.

“Registered” means registered under the Regulations;

“Regulations” means Regulations made under this Ordinance.

Inserted by
No. 32 of 1936,
s. 2.

Inserted by
No. 10 of 1936,
s. 3.

Inserted by
No. 2 of 1936,
s. 3.

Amended by
No. 2 of 1941,
s. 2.

(2) No notice has been published in *N.G. Gaz.*

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PART II.—OFFENCES.

6.—(1.) Any person who drives a motor vehicle upon a public street negligently or in a manner dangerous to the public shall be guilty of an offence.

Dangerous driving.
Sub-section (1) amended by No. 10 of 1937, s. 2.

(2.) In considering whether an offence has been committed under this section, the court shall have regard to all the circumstances of the case, including the nature, condition and use of the public streets upon which the offence is alleged to have been committed, and to the amount of traffic which was, or might reasonably have been expected to have been, upon that public street at the time.

7. Any driver of a motor vehicle who, when required by a European member of the police force to produce his licence to drive a motor vehicle, fails to do so, shall be guilty of an offence unless he has a reasonable excuse.

Licence to be produced upon demand.

8. Any driver of a motor vehicle who, when required by a European member of the police force to state his name and place of abode, refuses to do so or states a false name or place of abode, shall be guilty of an offence.

Driver to give name and address when required.

9. Any owner of, or passenger in, a motor vehicle who, upon being required by a European member of the police force to give any information which it is in his power to give and which may lead to the identification of any person who was driving the vehicle when an offence against this Ordinance was alleged to have been committed, fails or refuses to give the information, shall be guilty of an offence,

Owner of vehicle to furnish information when required.

10.—(1.) Any person who drives a motor vehicle whilst he is under the influence of intoxicating liquor shall be guilty of an offence, and, on conviction, shall be liable to a penalty of not less than Twenty pounds nor more than One hundred pounds, or to imprisonment for a term not exceeding twelve months.

Driver intoxicated.

(2.) The licence of any person convicted under this section shall be cancelled, and he shall not be qualified to obtain any licence for twelve months after the cancellation of the licence nor, after the expiration of such period, unless and until the court which convicted him so orders.

11. Unless exempted by regulations any person who—

Driver to be licensed.

(a) drives a motor vehicle upon a public street without being licensed so to do;

(b) employs or permits any unlicensed person to drive a motor vehicle upon a public street; or

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(c) drives, causes or permits to be driven, upon a public street, a motor vehicle—

(i) not having the prescribed number-plate properly affixed; or

(ii) having any number-plate obscured or damaged so that the numbers are not clearly visible,

shall be guilty of an offence:

Provided that a person shall not be liable to a penalty for a breach of the provisions of this section if he proves to the satisfaction of the court hearing the case that the breach was the result of an accident or that the motor vehicle was being driven for the purpose of being registered.

Public motor vehicle to be licensed.
Inserted by No. 10 of 1936, s. 4.

11A. Any person who causes or permits a motor vehicle to be used for carrying passengers for hire or reward unless a public motor vehicle licence issued in pursuance of the Regulations is in force in respect of that motor vehicle shall be guilty of an offence.

Unlawfully obtaining or possessing licence.

12. Any person who—

(a) by any false statement or misrepresentation obtains or attempts to obtain a licence;

(b) without lawful excuse, has in his possession a licence or number-plate issued under the Regulations, or any article resembling a licence or number-plate and calculated to deceive;

(c) forges or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, any licence or number-plate or mark for identifying a motor vehicle, issued under the Regulations; or

(d) owns or drives upon a public street any unregistered motor vehicle having upon it any numbers or number-plate of a description prescribed to be affixed to registered motor vehicles, and calculated to deceive,

shall be guilty of an offence.

Driver to stop in case of accident.

13. Where injury or damage is caused to any person, or to any animal or vehicle in charge of any person, by reason of an accident in which a motor vehicle is concerned, if the driver of the motor vehicle—

(a) fails to stop his vehicle; or

(b) if required—

(i) by the person who is injured or whose animal or vehicle is injured or damaged; or

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(ii) by a European member of the police force,

fails to give his name and place of abode, and also the name and place of abode of the owner and the registration number of the motor vehicle,

he shall be guilty of an offence.

14. Any person who drives or uses a motor vehicle without first obtaining the consent of the owner of the motor vehicle shall be guilty of an offence:

Motor vehicle not to be used without consent of owner.

Provided that the provisions of this section shall not apply to a member of the police force in the execution of his duty.

Penalty: One hundred pounds or imprisonment for six months.

14A. Any person who, in respect of any journey in a public motor vehicle, refuses or fails without reasonable excuse (proof whereof shall lie upon him) to pay the regular charge or fare payable by him, when demanded from him by the owner or the driver of the public motor vehicle or an employee of the owner, shall be guilty of an offence.

Failure to pay charge or fare an offence.
Inserted by No. 2 of 1941, s. 3.

Penalty: Five pounds.

15. Any person who procures the use or hire of a motor vehicle by fraud or misrepresentation, and any person who aids or abets that person, shall be guilty of an offence.

Hiring car by fraud.

PART III.—PENALTIES.

16. Any person who commits an offence against, or contravenes any provision of, this Ordinance or the Regulations, shall, where no other penalty is provided, be liable in respect of any such offence or contravention to a penalty not exceeding Fifty pounds or imprisonment for three months.

Penalties.

17.—(1.) The court before whom a person is convicted of an offence against, or contravention of any provision of, this Ordinance or the Regulations may—

Suspension, cancellation, and endorsement of licences.

(a) if the person convicted holds a licence under the Regulations, suspend that licence for such time as the court thinks fit, and, if the court thinks fit, also direct that no licence shall be issued to that person during such further time after the expiration of the licence as the court thinks fit, or cancel the licence, and, if the court thinks fit, also declare the person convicted to be disqualified from obtaining a licence for such time as the court thinks fit; and

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(b) if the person convicted is not the holder of a licence under the Regulations, direct that no licence shall be issued to that person during such time as the court thinks fit.

(2.) Whenever the holder of a licence is convicted of an offence against, or of a contravention of any of the provisions of, this Ordinance or the Regulations, the court shall cause particulars of the conviction to be endorsed upon the licence.

(3.) Any holder of a licence so convicted shall produce his licence within a reasonable time for the purpose of endorsement, and if he fails to do so shall be guilty of an offence.

(4.) A licence suspended in accordance with this section shall, during the term of the suspension, be of no effect, and a person whose licence is suspended or who is declared by the court to be disqualified from obtaining a licence, shall, during the period of suspension or disqualification, be disqualified from obtaining a licence.

(5.) If any person who, under the provisions of this Ordinance or the Regulations, is disqualified from obtaining a licence applies for or obtains a licence or a renewal of a licence while he is so disqualified, or if any person, whose licence has been endorsed, applies for or obtains a licence or a renewal of a licence without giving particulars of the endorsement, that person shall be guilty of an offence, and any licence so obtained shall be of no effect.

(6.) A licence cancelled under the provisions of this section or of the Regulations shall be of no effect.

(7.) The court before which the hearing takes place shall cause particulars of all convictions or orders under this Ordinance or the Regulations to be forwarded to the prescribed officer.

On non-payment
of penalties
court may
imprison.

18. In every case of adjudication of a pecuniary penalty under this Ordinance or the Regulations the court may, in and by the same or any subsequent order, commit the person making default in payment to prison.

Offence due to
accident.

19. A person shall not be liable to be convicted of an offence against, or a contravention of a provision of, this Ordinance or the Regulations if he proves, to the satisfaction of the court hearing the case, that the offence or contravention could not have been avoided by any reasonable efforts on his part.

PART IV.—MISCELLANEOUS.

Record of
registration
and licences to
be kept.

20.—(1.) Particulars of the registration of motor vehicles and of the issue of certificates and licences shall be recorded at the prescribed office or offices.

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(2.) An extract from, or copy of, any entry contained in the record, certified by a prescribed officer, shall, in all courts and upon all occasions, be received as evidence and deemed sufficient proof of all particulars contained in that entry without requiring the production of the books, licence, requisition, notice or other document upon which the entry was founded.

21. An information for an offence against or a contravention of any provision of this Ordinance or the Regulations may be laid by any person. Laying of information.

22. This Ordinance shall bind the Administration and all persons in the service of the Administration. Application to Administration.

23. Nothing in this Ordinance shall affect any liability of any person by virtue of any other law in force in the Territory. Liability by virtue of other law.

24. In any proceedings under this Ordinance or the Regulations— Evidence of registration and ownership.

- (a) proof that a motor vehicle has not upon it the distinguishing number as prescribed, shall be *prima facie* evidence that such vehicle is not registered; and
- (b) proof that a person registered a motor vehicle shall be *prima facie* evidence that such person is the owner of such vehicle.

25. Each European member of the police force shall do all things in his power to ensure that this Ordinance and the Regulations are duly observed, and, in all cases not expressly provided for, any European member of the police force in the execution of his duty under this Ordinance and the Regulations may give such reasonable directions to persons driving motor vehicles upon any public street as are in his opinion necessary for the safe and efficient regulation of the traffic thereon. Powers and duties of police.

26. Any notice for the purpose of this Ordinance or the Regulations shall be deemed to be duly served upon an owner or driver of a motor vehicle if served personally or if left at the last address specified in or endorsed upon the licence of the owner or driver. Service of notice.

27.—(1.) The Administrator may, by notice⁽³⁾ in the *New Guinea Gazette*, limit the speed at which a motor vehicle may travel Limitation of speed.

(3) Pursuant to Section 27, the Administrator, by notice dated 2.4.1928 and published in *N.G. Gaz.* of 2.4.1928, declared the maximum speed at which motor vehicles may travel upon public streets in the towns of Kavieng, Kokopo and Rabaul to be fifteen miles per hour, with a proviso that the maximum speed in Namanula, Sulphur Creek, Matupi and Malaguna Roads in the town of Rabaul should be twenty miles per hour. By subsequent notice dated 4.1.1935 and published in *N.G. Gaz.* of 15.1.1935, the Administrator revoked the notice dated 2.4.1928 and published in *N.G. Gaz.* of 2.4.1928 and declared the maximum speed at which motor vehicles may travel upon public streets within the boundaries of any town in the Territory to be twenty-five miles per hour. By further notice dated 17.8.1936 and published in *N.G. Gaz.* of 31.8.1936, the Administrator varied the notice dated 4.1.1935 and published in *N.G. Gaz.* of 15.1.1935, by declaring the maximum speed in Laukui Street in the town of Salamaua to be fifteen miles per hour.

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upon the public streets, or any part of the public streets, or in the area specified in the notice.

(2.) Any person who drives a motor vehicle upon the public streets or any part of the public streets, or in the area specified in the notice, at a speed greater than the limit of speed permitted therein, shall be guilty of an offence.

Licences under repealed Ordinances.

28. A licence issued under any Ordinance hereby repealed and in force at the commencement of this Ordinance shall be deemed to be a licence under this Ordinance.

Power to make regulations,
Sub-section (1) amended by No. 26 of 1938, s. 2

29.—(1.) The Administrator in Council may make regulations,⁽⁴⁾ not inconsistent with this Ordinance, prescribing all matters, which are necessary or convenient to be prescribed, providing for the registration of motor vehicles and the regulation of motor traffic and in particular for—

- (a) the regulation of the owners and drivers of motor vehicles;
- (b) the regulation of the registration of motor vehicles, and the manner, duration, suspension, cancellation, transfer and renewal of such registration;
- (c) providing for the licensing of drivers of motor vehicles and the regulation of the grant of licences and of the renewal, transfer, suspension, cancellation and return of those licences;
- (ca) providing for and in relation to the licensing of public motor vehicles and the regulation of the grant of public motor vehicle licences and of the renewal, transfer, suspension, cancellation, and return of those licences;
- (cb) prescribing the form, construction, and equipment of public motor vehicles;
- (cc) providing that a public motor vehicle licence shall not be granted or renewed except in respect of a motor vehicle the owner of which is insured as prescribed against his liability for damages in respect of such motor vehicle in case of injury to persons;
- (d) prescribing the qualifications and ages of drivers of motor vehicles;
- (e) prescribing places for the registration of motor vehicles and the licensing of drivers;
- (f) regulating the use of motor vehicles upon public streets and the conditions under which they may be used;

Paragraph (ca) inserted by No. 10 of 1936, s. 5.

Paragraph (cb) inserted by No. 28 of 1937, s. 3.

Paragraph (cc) inserted by No. 28 of 1937, s. 3.

(4) See the *Motor Traffic Regulations*, printed on p. 3691.

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- (g) regulating the pace at which motor vehicles may travel;
- (h) regulating the weights of the loads and the number of passengers which may be carried upon different kinds of motor vehicles and the carrying on motor vehicles of long, large, heavy or projecting articles;
- (i) prescribing and regulating the carrying of lights on motor vehicles;
- (j) prescribing and regulating the affixing and use of horns or other means of alarm;
- (k) prescribing and regulating the affixing of efficient brakes on motor vehicles;
- (l) providing for preventing or minimizing the noise, and the issue of smoke or fumes from the working of the machinery or engines of motor vehicles;
- (m) prohibiting the use of motor vehicles that, owing to construction or other causes, are unsuitable for safe use;
- (n) prohibiting the use, upon public streets, of motor vehicles that are unregistered;
- (o) prescribing the rules of the road to be observed by drivers of motor vehicles, and the regulation of motor traffic both generally and in respect of particular localities or public streets, including the prohibition or restriction of motor traffic in particular localities or public streets, either for a specified period or otherwise and in respect of any class or classes of motor vehicles;
- (p) providing that motor vehicles shall have separate distinguishing numbers, the manner of affixing them on such vehicles, and the issue and return of such numbers;
- (q) providing for the erection of uniform signs and notices for the guidance of motor drivers;
- (r) providing for the temporary registration of motor vehicles owned by persons residing outside the Territory, and temporarily in the Territory, and the drivers thereof;
- (s) providing for the issue of special number-plates to manufacturers of, or dealers in, motor vehicles, for use upon any motor vehicle in their possession on trial before or after completion, and prescribing the conditions under which such plates may be used;
- (t) imposing taxation upon motor vehicles;

Paragraph (h)
amended by
No. 28 of 1937,
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Paragraph (u)
amended by
No. 7 of 1933,
s. 3.

- (u) appointing officers in the Public Service of the Territory and commissioned officers of the New Guinea Police Force to administer this Ordinance and the Regulations and defining their powers and duties;
- (v) prescribing the manner in which registers shall be kept;
- (w) prescribing the forms of certificates of registration, licences and other documents issued, or used under or for the purposes of this Ordinance or the Regulations;
- (x) prescribing the matters in relation to which fees shall be payable and the fees to be paid;
- (y) providing for any other purpose which the Administrator may consider necessary for the safety of the public and generally for carrying this Ordinance and the Regulations into effect.

Sub-section (2)
amended by
No. 28 of 1937,
s. 3.

(2.) Regulations made under this section may be of general application or may be limited to a prescribed area or according to time or circumstances, and may be restricted in their operation to natives or to persons other than natives or to any prescribed class of natives or persons other than natives, or to natives or persons other than natives in a prescribed area, or to any specified class of motor vehicle.

(3.) Any regulations made under this section may declare that any contravention of the provisions of the Regulations shall be an offence punishable upon conviction by a penalty not exceeding a fine of Fifty pounds or imprisonment not exceeding three months.

Sections 30 and
31 repealed by
No. 26 of 1938,
s. 3.

