

Statutory Instrument No. 59 of 1989

BOTSWANA RAILWAYS ACT, 1986

(Act No. 22 of 1986)

BOTSWANA RAILWAYS BYE-LAWS, 1989

(Published on 7th July, 1989)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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IN EXERCISE of the powers conferred on the Board of Management of the Botswana Railways Organization by section 27 of the Botswana Railways Act, 1986, and with the approval of the Minister of Works, Transport and Communications, the following Bye-Laws are hereby made.

1. These Bye-Laws may be cited as the Botswana Railways Bye-Laws, 1989. Citation

2. In these Bye-Laws, unless the context otherwise requires — Inter-
pretation

“the Act” means the Botswana Railways Act, 1986;

“authorized officer” means any officer or employee appointed, transferred or seconded to Botswana Railways in accordance with section 10 of the Act, any police officer in the execution of his duty, or any other person specially authorized by the Board of Management of the Botswana railways;

“Botswana Railways” means the Botswana Railways Organization established under section 3 of the Act;

“the railway” means the railways and railway premises of Botswana Railways, and includes stations, approaches to stations and railway reserves;

“Tariff Book” means the official railway publication (or publications) containing the conditions for conveyance and carriage of goods and

passengers on Botswana Railways, and the table of tariffs and fares, including excess fares, therefor and which is available for inspection by the public at railway stations and goods depots;

“ticket” means a ticket or document issued by or on the authority of the Botswana Railways, for the conveyance of any passenger, animal or article on the railway, or any platform ticket or vehicle or bicycle parking ticket, and includes any warrant, voucher or other authority in exchange for or on production of which a ticket for the conveyance of any passenger may be issued;

“vehicle” means any railway vehicle on the railway, and includes any compartment of such vehicle.

Access to
the railway

3. Any authorized officer may, for good cause, refuse access to the railway to any person, and any person who disregards or refuses to obey any such refusal by an authorized officer shall be guilty of an offence.

Offences in
connexion
with the
use of
the railway

4. (1) Any person found on the railway who is unable to establish satisfactorily to an authorized officer that he has legitimate business entitling him to be there, or who is not genuinely in the act of crossing the railway at an authorized crossing point, shall be guilty of an offence.

(2) Any person who passes a ticket barrier or enters a vehicle without being in possession of a valid ticket or other authority entitling him to so pass or enter shall be guilty of an offence:

Provided that at a location where there are no ticket issuing facilities a person shall not be guilty of an offence under this sub-bye-law if he so passes or enters for the purpose of travelling on the railway, and is in possession of adequate funds to enable him to pay to an authorized officer the correct fare for the journey.

(3) (a) A ticket shall not be used for a purpose other than that for which it was issued, and, unless permitted by an authorized officer, shall not be used for a type of travel or a class of accommodation other than that for which it was issued.

(b) A person who uses or attempts to use a ticket in contravention of this sub-bye-law shall be guilty of an offence.

(4) Any person who alters, defaces, mutilates or destroys a ticket or who uses, or attempts to use a ticket or other authority to pass which has been altered, defaced or mutilated shall be guilty of an offence.

(5) Any person who sells or gives a ticket or other authority to pass obtained for his own use, in reserved accommodation, to another person, shall be guilty of an offence.

(6) Any person guilty of an offence under this bye-law, shall in addition to and without prejudice to any fine for which he is liable, be liable to pay or repay to Botswana railways any fare or excess fare due in accordance with the provisions of the Tariff Book.

Parking fee

5. Any person in charge of a motor vehicle, wagon, bicycle, or other conveyance which is parked at a place on the railway, for the use of which parking charges are levied by Botswana Railways, who removes or attempts to remove the conveyance from the place without having previously paid the appropriate charge, and with intent to avoid payment thereof, shall be guilty of an offence.

Vehicles or
animals
on the
railway

6. (1) Any person in charge of a motor vehicle, wagon, bicycle or other conveyance, or of any animal,

(a) who leaves, places or allows it or them to be left or placed in or on the railway —

- (i) in any manner or place so as to cause an obstruction or hindrance to Botswana Railways or to persons using the railway; or
 - (ii) otherwise than in accordance with any reasonable direction of an authorized officer; or
 - (iii) where parking or waiting is prohibited; or
 - (b) who leaves, places or allows to be left or placed any such conveyance or animal in or upon the railway (otherwise than in a car park or other place expressly authorized by Botswana Railways for the purpose) for a period longer than is necessary for such person to transact any lawful business upon the railway at or adjacent to the place at which such conveyance or animal has been left or placed; or
 - (c) who leaves or allows to be left unattended any animal in or upon the railway otherwise than in a place expressly appointed by Botswana Railways for the purpose,
- shall be guilty of an offence.

(2) Any conveyance or animal left or placed in breach of this byelaw may be removed by or under the direction of an authorized officer, and the cost of such removal shall be paid to Botswana Railways by the person, who, at the time of leaving or placing, was in charge of the conveyance or animal, in addition to and without prejudice to any penalty incurred by reason of the contravention of this byelaw.

7. (1) Any person who operates, moves, works or interferes with any mechanical or electrical appliance upon the railway, or interferes with any switch, lever or other device operating or controlling any mechanical or electrical appliance upon the railway, or places an obstruction upon or adjacent to the track shall be guilty of an offence, except only —

Interference
with
equipment,
etc.

- (a) in case of emergency, a switch lever or other device or mechanical or electrical appliance upon or near which is displayed a notice that it is intended to be operated in a case of emergency; or
 - (b) in the case of an automatic door in any vehicle, when such door is immediately adjacent to and gives immediate access to, and such vehicle is stationary at, a platform or place appointed for passengers to enter or leave the vehicle, any switch lever or other device or mechanical or electrical appliance upon or near which is displayed a notice that it is intended to be operated by passengers to open or close such doors;
 - (c) any switch lever or other device or mechanical or electrical appliance provided in a compartment of a vehicle for the operation or control of heating, ventilating or lighting apparatus by passengers therein.
- (2) Any person who without the permission of an authorized officer opens or attempts to open any gate leading to or from a platform at a station upon the railway, shall be guilty of an offence.
- (3) Any person who except in case of accident or other emergency, —
- (a) opens a door, or stands or attempts to stand on the step or foot-board of any vehicle whilst it is in motion between station; or
 - (b) opens the door of any vehicle at a station except at the side of the vehicle adjoining the platform or place appointed for passengers to enter or leave the vehicle; or

- (c) enters or leaves, or attempts to enter or leave, any vehicle whilst it is in motion between stations, or otherwise than at the side of the vehicle adjoining the platform or place appointed for passengers to enter or leave the vehicle; or
- (d) in the case of a vehicle equipped with automatic closing doors, attempts to enter or leave the vehicle after the doors have begun to close; or
- (e) where notices are exhibited in or on a vehicle indicating that a door is to be used for entrance thereto and another door for exit therefrom, enters or attempts to enter by the door indicated for exit or leaves or attempts to leave by the door indicated for entrance,

shall be guilty of an offence.

(4) Without prejudice to any penalty incurred by reason of any contravention under this byelaw, the person committing the offence shall be liable to Botswana Railways for the cost of rectifying any damage to the property of Botswana Railways that may be occasioned as a result of such contravention.

Riding on
footpaths,
etc.

8. Any person who rides a bicycle, motor cycle or similar machine, or brings any handcart, barrow or similar conveyance upon a footbridge, footpath, causeway or subway of the railway made or set apart for the use or accommodation of pedestrians only, shall be guilty of an offence:

Provided that a person shall not be subject to a penalty under this byelaw if it is proved to the satisfaction of the court before which the complaint is laid that public warning had not been given that the footbridge, footpath, causeway or subway in respect of which the complaint is made has been set apart as aforesaid, by notice clearly exhibited thereat, at the time at which the offence is alleged to have been committed.

Throwing or
dropping of
articles, etc.

9. (1) Any person who throws or drops on or from any vehicle or conveyance on the railway any article or thing whatsoever capable of injuring, damaging or endangering any person or property shall be guilty of an offence.

(2) Any person who deposits litter in any vehicle or on the railway shall be guilty of an offence.

Smoking

10. Any person who smokes or carries a lighted pipe, cigar or cigarette on or in any vehicle or elsewhere upon any part of the railway other than at a place where smoking is expressly permitted by Botswana Railways by a notice exhibited in conspicuous position in or on such vehicle or upon or near such other part of the railway, or if requested by an authorized officer not to do so in or upon any part of the railway where smoking may be dangerous, shall be guilty of an offence.

Infection or
disease

11. (1) Except with the written permission of an authorized officer, a person suffering from any infectious or contagious disease or disorder shall not enter or remain, and any person having the custody, charge or care of any such person shall not cause or permit him to enter or remain, upon the railway, and any person who contravenes this byelaw shall be guilty of an offence.

(2) Any person suffering as described in sub-byelaw (1) and any person having the custody, charge or care of such person, may be removed from the railway by or under the directions of an authorized

officer and shall be liable to the Botswana Railways for the cost of disinfecting Botswana Railways' premises and any vehicle in or on which such person shall have been, and making good any other damage to the property of Botswana Railways resulting from the contravention of these Byelaws, in addition to and without prejudice to any penalty incurred by such contravention.

12. (1) Any person who —

Entry on
trains

- (a) enters or attempts to enter a vehicle through any door thereof before all persons who are leaving or attempting to leave through that door have passed out of it; or
- (b) when a vehicle contains the full number of passengers which it is constructed to carry enters or remains thereon when required by an authorized officer not to do so; or
- (c) mounts or attempts to mount on any vehicle, except on such parts as are provided for the carriage of passengers; or
- (d) takes into a compartment or carriage any luggage other than compartment luggage as defined in the Tariff Book,

shall be guilty of an offence.

(2) Luggage other than compartment luggage shall be conveyed as van luggage and what comprises compartment luggage or van luggage shall be determined by an authorized officer.

13. Any person who —

Reserved
places

- (a) occupies or uses a compartment, sleeping berth or seat in a vehicle or on the railway upon or in relation to which notice has been fixed or given by Botswana Railways that the compartment, berth or seat is reserved, and of which he is not the holder of a reservation ticket issued to him by Botswana Railways authorizing or entitling him to such occupancy or use; or
- (b) being a male passenger, is found in a compartment set aside for or reserved for females, without having the express permission of an authorized officer for being there,

shall be guilty of an offence.

14. An authorized officer may establish queues on the railway for the purpose of regulating access to services and facilities provided by Botswana Railways, and any person desirous of availing himself of such service or facility who fails to take up a position at the rear of one of such queues or moves forward in a disorderly and irregular manner, or disobeys the reasonable instructions of any authorized officer regulating such queue, shall be guilty of an offence.

Tickets,
queues, etc.

15. Any person who on or in any part of the railway —

Disorderly
conduct

- (a) uses threatening, abusive, obscene or offensive language; or
- (b) behaves in a riotous, disorderly, indecent or offensive manner; or
- (c) writes, draws or affixes any abusive, obscene or offensive word, representation or character upon, or wilfully soils or defiles any railways property; or
- (d) molests or wilfully interferes with the comfort or convenience of any passenger or person in or upon the railway; or
- (e) occupies a waiting-room or other part of the railway premises when not a prospective passenger; or
- (f) knowingly enters railway premises, workshops, fuel installation points, control offices or other offices where entry is prohibited or which are clearly marked "private",

shall be guilty of an offence.

Nuisance	16. Any person on or using the railway, who, to the annoyance of any other person, sings, performs on any musical or other instrument or uses any record player, tape recorder or portable wireless apparatus, shall be guilty of an offence.
Commercial activities, etc.	17. Any person on or using the railway, who, except with the permission of an authorized officer — (a) displays or exhibits any printed, written or pictorial matter or any article for the purpose of advertisement or publicity, or distributes any book, leaflet or other printed material or any sample or other article for such purpose; or (b) sells or exposes or offers for sale any article or goods whatsoever; or (c) touts, plies for or solicits alms, reward or custom, or employment of any description, shall be guilty of an offence.
General penalty	18. Any person who is guilty of an offence under these Byelaws shall, except where another maximum penalty is provided, be liable to a fine of P200,00.
Liability for compensation	19. Botswana Railways will not accept liability for compensation in connexion with the conveyance or carriage of any person, livestock or property killed, injured, damaged or lost on the railway except as provided for in accordance with the conditions for conveyance and carriage contained in the Tariff Book.
Disposal of property	20. Unclaimed goods and property left in the railway premises may be disposed of after reasonable efforts have been made to establish ownership, and after 60 days from the day the goods came to hand any proceeds will be paid into revenue.
Dangerous goods prohibition	21. (a) Dangerous goods or firearms shall not be brought onto the railway except for conveyance as previously arranged, or permitted by an authorized officer. Such items will be conveyed separately with the guard unless otherwise ordered or permitted by an authorized officer. (b) Any one contravening the provisions of sub-byelaw (a) or who conveys or attempts to convey such items on the railway without declaring them shall be guilty of an offence and liable to a fine of P400, and any such items improperly brought onto the railway may be seized and handed over to the police.
Powers to examine	22. Any goods in transit on the railway may be examined by an authorized officer.

MADE this 20th day of June, 1989.

Board of Botswana Railways

Approved this 20th day of June, 1989.

C.J. BUTALE,
*Minister of Works, Transport and
 Communications.*