

CHAPTER 70:03
RAILWAY (COMPENSATION FOR LIVESTOCK)
ARRANGEMENT OF SECTIONS

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Proc. 20, 1904,
Cap. 139, 1948,
Proc. 12, 1953,
Cap. 165, 1959,
L.N. 84, 1966,
Act 5, 1979.

An Act to make provision as to the compensation of owners of stock killed or injured by trains running on lines of railway.

[Date of commencement: 6th August, 1904]

1. Short title

This Act may be cited as the Railway (Compensation for Livestock) Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"daylight" means the period between sunrise and sunset;

"stock" includes horse, gelding, mare, colt, mule, ass, bull, ox, heifer, tolly, cow, calf, sheep, goat, pig and ostrich;

"undertakers" means any Government, company or body of persons working railways within the limits of Botswana under lawful authority.

3. Compensation to be made to owner of stock killed or injured by trains running by daylight

The undertakers of any railway within the limits of Botswana shall pay compensation to the owner of any stock killed or injured by any train running by daylight on any line worked by such undertakers if the part of the line at which such killing or injury takes place is unfenced at that time and if no compensation has been paid to any person by such undertakers for or in respect of the right to construct such part of such line:

Provided that no person shall be entitled to recover any sum of money under this Act for the killing or injuring of any stock who fails within 48 hours after such stock has been killed or injured to give notice to the nearest station-master of the killing or injury thereof and of the number and kind of stock so killed or injured in respect of which compensation is claimed:

Provided also that the carcasses or remains of all stock killed and all injured stock in respect of which any claim is made under this Act shall be diligently and to the best of his ability kept and preserved by the owner making such claim for a period of not less than three full days from the time when such killing or injury took place and shall be shown to any person appointed for the purpose of ascertaining the value of the stock so killed or injured.

4. Penalty for making claim with intent to defraud

Any person who fails to keep and preserve such carcass or remains of killed stock or such injured stock as aforesaid or who makes any claim for compensation under this Act which any court of competent jurisdiction finds to be either fraudulent or grossly excessive shall not be entitled to any of the benefits of this Act and any person who makes any such claim with intent to defraud shall be guilty of an offence and liable to all the penalties of the crime of fraud.

5. Amount of compensation payable

(1) The amount of compensation payable under this Act shall in no case exceed the rates set out in the Schedule.

(2) The Minister may, by order published in the *Gazette*, amend the Schedule.

6. Claims cognizable in any competent court of Botswana

Claims for compensation for stock under the provisions of this Act shall be cognizable in any competent court of Botswana within the jurisdiction of which court such stock has been killed or injured notwithstanding that the train by which the stock was killed or injured belongs to an undertaker not domiciled within Botswana, and for the purpose of such action service upon any station-master of the undertakers resident within the limits of such court shall be deemed sufficient service on the undertakers.

SCHEDULE
MAXIMUM AMOUNTS OF COMPENSATION PAYABLE

(s. 5)

For any bull	P200
For any ox	P150
For any tolly or heifer	P100
For any cow	P100
For any calf	P50
For any horse	P150
For any mule	P50
For any ass	P15
For any sheep	P15
For any goat	P15
For any pig	P25