

**CHAPTER 70:02**  
**RAILWAY (ACCIDENT INQUIRY)**  
ARRANGEMENT OF SECTIONS

SECTION

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Proc, 9, 1940,  
Proc. 1, 1941,  
Cap. 140, 1948,  
Cap. 166, 1959,  
HMC Order 1, 1963,  
S.I. 12, 1977,  
Act 14, 2005.

**An Act to make provision for the holding of inquiries in cases of accident on the railways.**

*[Date of Commencement: 1st March, 1940]*

**1. Short title**

This Act may be cited as the Railway (Accident Inquiry) Act.

**2. Accidents on railway to be reported**

When in the course of working a railway in Botswana an accident occurs causing loss of human life or grievous bodily injury to any person or in which a passenger train is concerned, the general manager of the railway shall, without unnecessary delay, send written notice of the accident to the Minister.

**3. Nature of report**

The report shall contain a brief statement of the nature of the accident and of the injuries, if any, caused to any person or persons.

**4. Ministry may order inquiry**

(1) The Minister, if he considers such course advisable, may order an inquiry into the cause of any such accident and may direct an administrative officer or other competent person to investigate the matter with the aid of an assessor or assessors to be appointed by the President.

(2) Such assessor or one at least of such assessors if more than one is appointed, shall be a person who is fully conversant with railway practice and technicalities.

**5. Procedure at inquiry**

For the purpose of making such inquiry an administrative officer may-

- (a) enter and inspect any place or building, works, offices, stock, plant or machinery, the entry or inspection whereof appears to him requisite for such purpose;

- (b) summon and bring before him all such persons as he may think necessary and who are deemed capable of giving information or evidence concerning such accident;
- (c) examine all such persons on oath and reduce that examination to writing; and
- (d) require and enforce the production of all books, papers and documents which he may consider necessary for such purpose.

#### **6. Default by witnesses**

If any person summoned as a witness fails to attend in pursuance of such summons such person shall, unless some reasonable excuse be proved on oath or affidavit, be liable to be fined by the administrative officer issuing such summons such sum, not exceeding P20, as the administrative officer thinks fit, and the administrative officer may issue a warrant for the apprehension of such person.

#### **7. Oaths and forms to be used**

The administrative officer presiding at the inquiry shall administer to the persons appearing to give evidence such oaths or other solemn forms as, *mutatis mutandis*, are used in criminal cases, and the forms of summonses and warrants of apprehension shall be, as near as may be, those in use in similar matters in magistrates' courts.

#### **8. Contempt**

All acts of contempt committed by witnesses or other persons before or in regard to any inquiry shall be dealt with in like manner *mutatis mutandis* as contempt committed by witnesses or other persons before a magistrate's court.

#### **9. Expenses of witnesses**

All witnesses summoned or attending to give evidence before an administrative officer shall be entitled to receive their expenses as if summoned to give evidence at a criminal trial before a magistrate's court.

#### **10. Inquiry to be public, subject to discretion of administrative officer**

The inquiry shall be conducted openly and the public and the press shall have access to the place where the inquiry is being held:

Provided, however, that the administrative officer may in his discretion exclude the public and the press from the inquiry or any part thereof and may hold such inquiry in such manner and under such conditions as he may think most effectual for ascertaining the causes and circumstances of the accident and for enabling him to make his report.

#### **11. Powers and duties of administrative officer**

If the administrative officer after concluding any inquiry has cause to believe that any crime or offence has been committed in connection with the accident inquired into by any person who can be made amenable to justice, he may cause such person to be summoned or apprehended and, in such case, shall report the matter to the Director of Public Prosecutions in order that criminal proceedings may be instituted should the Director of Public Prosecutions so decide.

#### **12. Administrative officer to report finding**

At the close of the inquiry the administrative officer shall submit a copy of the proceedings and a report in writing to the Minister as to the causes of origin of the accident, and shall state whether in his opinion it was caused by design or was the result of accident or negligence, stating the full particulars of the case and the conclusion at which he has arrived in regard to it.

#### **13. Holding of inquiry by person not an administrative officer**

If any person who is not an administrative officer is appointed to hold an inquiry he shall have all the powers and the duties conferred on an administrative officer under this Act.

#### **14. Inquiry not to affect holding of inquest**

The holding of an inquiry shall not exempt any administrative officer from holding any such inquest as is prescribed by any law providing for the holding of inquests.