

**CHAPTER 72:02**  
**BOTSWANA TELECOMMUNICATIONS CORPORATION**  
ARRANGEMENT OF SECTIONS

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Act 3, 1980,  
S.I. 46, 1980,

**An Act to provide for the establishment of a Corporation to be known as the Botswana Telecommunications Corporation for the provision, development, operation and management of Botswana's National and International Public Telecommunications Services and for matters connected therewith or incidental thereto.**

[Date of Commencement: 1st April, 1980]

**PART I**

**Preliminary (ss 1-2)**

**1. Short title**

This Act may be cited as the Botswana Telecommunications Corporation Act.

**2. Interpretation**

In this Act, unless the context otherwise requires-

"**Corporation**" means the Botswana Telecommunications Corporation established under section 3;

"**financial year**" means the year ending on 31st March in each year;

"**prescribed**" means prescribed by regulations made under section 26 of the Telecommunications Act;

"**telecommunications services**" includes telephone, telex, telegraph, data facsimile and leased circuit services, together with appropriate terminal equipment;

"**telephone lines**" means all cables and overhead lines, whether constructed or due to be constructed, for the connection of subscribers or the interconnection of exchanges, together with any junctions or other equipment necessary to effect these connections;

"**undertaking**" means any business for the provision of telecommunications services.

**PART II**

**Establishment, Constitution and Membership of Corporation (ss 3-7)**

**3. Establishment of Corporation**

(1) There is hereby established a corporation to be known as the Botswana Telecommunications Corporation.

(2) The Corporation shall be a body corporate capable of suing and of being sued in the name of the Botswana Telecommunications Corporation and, subject to the provisions of this Act, of performing such acts as bodies corporate may by law perform.

**4. Composition of Corporation**

(1) The governing body of the Corporation shall be a Board consisting of the following members appointed by the Minister-

- (a) the chairman;
- (b) the chief executive of the Corporation appointed under section 10, *ex officio*; and
- (c) not less than five or more than seven other persons who in the opinion of the Minister have knowledge and experience likely to contribute to the successful management of the Corporation.

(2) A person shall not be competent to be appointed or to act as a member of the Board if-

- (a) he is a Member of the National Assembly;
- (b) he is an employee of the Corporation; or
- (c) he has been declared insolvent or bankrupt under any law in any country and has not been discharged, or has made a composition with his creditors and has not paid his debts in full.

**5. Resignation and removal from office**

(1) Any member of the Board other than the chief executive may resign from the Board by notice in writing addressed to the Minister.

- (2) A member of the Board may be removed from the Board if he-
- (a) ceases to hold the office by virtue of which he was appointed;
  - (b) becomes of unsound mind;
  - (c) is declared insolvent or bankrupt under any law in force in any country;
  - (d) suspends payment of his debts or compounds with his creditors;
  - (e) is absent from three consecutive meetings of the Board without such reason as appears to the Minister to be sufficient;
  - (f) is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
  - (g) is guilty of serious misconduct in relation to his duties as chairman or member of the Board; or
  - (h) in the case of a person possessed of professional qualifications, is disqualified or suspended, otherwise than at his own request, from practising his profession in Botswana or in any other country by order of any competent authority made in respect of him personally.

## **6. Tenure of office**

(1) A member of the Board, other than the chairman and the chief executive, shall hold office for such period, not exceeding four years, as may be specified in the notice appointing him, and on the expiration of such period shall be eligible for reappointment:

Provided that in appointing members of the Board the Minister shall specify such periods of appointment that the periods of appointment of not more than one-third of the members shall expire in any one year.

(2) The chairman of the Board shall hold office as chairman for a period of three years, and may be reappointed for a further period of three years.

(3) The Board shall once in every year elect from among its members (other than the *ex officio* member) a vice-chairman who shall hold office as vice-chairman for a period of one year.

(4) Subject to the provisions of this Act, where any member of the Board is incapacitated by absence from Botswana, or illness or any other sufficient cause, from performing the duties of his office, the Minister shall appoint another person to hold office in his place until the incapacity of that person has terminated or until the term of office of such member expires, whichever first occurs.

## **7. Payment of members**

The Board shall pay to the members thereof such remuneration, fees and allowances for expenses as may be approved by the Minister.

### **PART III**

#### ***Meetings and Proceedings of Board (ss 8-9)***

## **8. Meetings**

(1) The Board shall meet for the discharge of its functions at such times and places as the chairman may appoint, so however that the Board shall meet at intervals not exceeding six months.

(2) The chairman or in his absence the vice-chairman may, and shall on the request in writing of not less than two members of the Board, call an extraordinary meeting of the Board at such time and place as he may determine.

(3) The chairman or, in his absence, the vice-chairman shall preside at every meeting of the Board.

(4) In the absence of both the chairman and the vice-chairman, the members present shall elect one of their number to preside at the meeting.

(5) The quorum at any meeting of the Board shall not be less than one-half of the number of the members of the Board.

(6) All questions proposed at a meeting of the Board shall be determined by a majority of the members present and voting, and, where the votes are equal, the chairman or the person

presiding shall have a second or a casting vote.

(7) Any member of the Board who has an interest, or whose spouse has an interest, in any company or undertaking with which the Board proposes to make a contract or, has an interest in any contract which the Board proposes to make, shall disclose the nature of his interest, and shall not vote or take any part in the proceedings of the Board relating to such contract.

(8) The Board may, and shall if the Minister thinks fit, request the attendance of any person to act as adviser at any meeting of the Board, and that person while so attending shall have all the powers of a member except that he shall not vote on any question and his presence at the meeting shall not count towards the constitution of a quorum.

(9) The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of a member thereof.

(10) The Board may from time to time make standing orders providing for the regulation of-

- (a) the meetings of the Board;
- (b) the conduct of its business and other operations in carrying out its functions; and
- (c) the duties of its officers, employees and agents.

#### **9. Signification of documents**

All documents made by, and all decisions of, the Board may be signified under the hand of the chairman of the Board, the chief executive or any member or senior officer of the Corporation generally or specially authorized in that behalf.

### **PART IV**

#### **Officers, Employees and Agents of Corporation (ss 10-11)**

#### **10. Appointment of officers and employees**

(1) The Corporation shall have a chief executive who shall be appointed by the Minister upon such terms and conditions as may be determined by the Corporation.

(2) No person shall be appointed as the chief executive of the Corporation unless he is qualified by experience and training and has demonstrated that he is competent to manage and operate the undertakings of the Corporation.

(3) The chief executive of the Corporation shall, subject to such directions on matters of general policy as may be given by the Corporation, be charged with the direction of the business of the Corporation and of its administration and organization, and the control of the employees of the Corporation.

(4) The chief executive may resign from office by notice in writing addressed to the Minister, and may be removed from office by the Minister.

(5) The chief executive may delegate to any senior officer of the Corporation the exercise of any powers which he is authorized to exercise under this Act.

(6) The Board shall, on consideration of the recommendations of the chief executive, from time to time determine the staff deemed necessary for the proper discharge of the functions of the Corporation and the terms and conditions of employment.

(7) The appointment and dismissal of all persons to or from positions designated by the Corporation as held by senior officers shall be made by the Board on consideration of recommendations of the chief executive.

(8) The appointment and dismissal of all other staff shall be made by the chief executive or such senior officer as he may delegate to perform this function.

(9) The Corporation may-

- (a) grant pensions, gratuities or retiring allowances to any officer or employee and may require such officer or employee to contribute to any pension or contributory scheme;
- (b) for the benefit of its officers and employees, establish and make contributions to any pension or superannuation fund or medical fund; and
- (c) from time to time appoint and employ upon such terms and conditions as it may think fit

such agents and contractors as it may deem necessary.

(10) Public officers may be transferred or seconded to the Corporation or may otherwise give assistance thereto.

#### **11. Delegation to committee**

The Board may, by resolution, delegate to any committee of the Corporation the exercise of any of the powers which the Corporation is authorized by this Act to exercise either generally or in any particular case.

### **PART V**

#### ***Functions, Powers and Duties of Corporation (ss 12-15)***

#### **12. Functions and powers**

(1) The functions of the Corporation shall be to operate telecommunications networks and to provide telecommunications services in Botswana under licence from or contract with the Government, together with such other activities as may appear to the Corporation to be conducive or incidental to the attainment of all or any of its objectives under this Act or any other law.

(2) The Corporation shall have all powers necessary or convenient for the performance of its functions and duties and, without prejudice to the generality thereof, shall have the power to-

- (a) acquire, construct, instal, assemble, repair, maintain, operate or remove telephone exchanges, radio stations, telephone lines, masts, towers, all types of telecommunications apparatus, fittings and installations;
- (b) acquire and use any kind of property, undertaking, right or privilege and dispose of the same to the Government, or to any person other than a member, officer or employee of the Corporation, or any agent or contractor, appointed or employed by the Corporation;
- (c) use or acquire telecommunications apparatus or services;
- (d) enter into agreements in connection with the operation of telecommunications services;
- (e) supply or sell telecommunications services to all persons desiring such services;
- (f) enter into such contracts as may be necessary for the performance of its functions and duties;
- (g) construct or cause to be constructed such works, houses, offices and other buildings and structures as it may deem necessary or expedient for the performance of its functions and duties;
- (h) purchase, take on lease or otherwise acquire or construct or cause to be constructed such tools, appliances, machinery, plant and equipment as it may deem necessary or expedient for the performance of its functions and duties;
- (i) sell, exchange, lease, dispose of, turn to account or otherwise deal with any of its assets or any part thereof, whether movable or immovable, not required for its purposes:  
Provided that the Corporation may not sell any of its immovable property without the approval in writing of the Minister for the time being responsible for finance;
- (j) invest from time to time, in such manner as it may deem fit, such moneys held by it as may be surplus to its immediate requirements, subject to the approval in writing of the Minister for the time being responsible for finance;
- (k) insure with any company or person against any losses, damages, risks or liabilities which the Corporation may incur;
- (l) purchase or sell any materials and stores used in the performance of its functions;
- (m) sell, hire or otherwise dispose of telecommunications apparatus or services;
- (n) carry on any activity which is reasonably requisite or convenient for or in connection with the discharge of its functions under this Act.

#### **13. Co-operation with authorities**

In the discharge of its functions the Corporation shall co-operate with local and other

public authorities, including departments and agencies of the Government, and shall consult with local authorities in matters of concern to the Corporation which affect their interests.

#### **14. Research and records**

With a view to facilitating present or future research or planning, the Corporation shall keep full and accurate records of all its operations and shall have power to engage in research and to assist others to engage in research in respect of any matter relating to its functions, and to publish such records and the results of any such research.

#### **15. Power of Minister to give directions**

The Minister may, after consultation with the Board, give to the Corporation such directions of a general or specific character as to the exercise and performance of its powers in fulfilling its functions as are necessary as a matter of public policy and as are not inconsistent with this Act or with the contractual or other legal obligations of the Corporation, and the Corporation shall give effect to any such direction.

### **PART VI**

#### **Finances (ss 16-20)**

#### **16. Principles of financial operations**

(1) It shall be the duty of the Corporation to conduct its affairs on sound commercial lines.

(2) For the purposes of this section "net operating income" means the amount of income remaining after subtracting from total operating revenues all charges which in accordance with generally acceptable accounting principles are chargeable to revenue accounts, including appropriate provisions for depreciation of assets, adequate maintenance and taxes, but before deducting interest and other charges on borrowing or taking into account non-operating income and expenditure.

(3) In determining what constitutes a reasonable return, all pertinent economic and financial considerations shall be taken into account, which shall include but not be limited to the need for net operating income in an amount sufficient-

- (a) to meet interest payments on borrowings;
- (b) to provide for repayments to be made each year in respect of loans incurred by the Corporation to the extent to which such repayments exceed the year's provision for depreciation charged to revenue accounts;
- (c) to provide a reasonable proportion of the funds needed for expanding the Corporation's activities and improving its services;
- (d) to provide reserves for replacement, expansion or other purposes if and to the extent to which the Corporation deems it necessary to establish such reserves; and
- (e) to make dividend payments to the Government in respect of its equity interest in the Corporation if and to the extent deemed appropriate by the Corporation, after consultation with the Minister and the Minister for the time being responsible for finance and having regard to the future financial requirements of the Corporation.

#### **17. Establishment of subsidiaries, etc.**

The Corporation may establish such subsidiaries and enter into such joint ventures, partnerships or other associations with private investors as it may consider necessary to enable it to conduct its affairs in accordance with section 16.

#### **18. Borrowing powers**

(1) In order to enable the Corporation to discharge its functions under this Act and to meet its obligations it may borrow, on such terms and in such currencies as may be agreed between it and any lender, such sums as it may require, subject to the approval of the Minister for the time being responsible for finance.

(2) The Corporation may charge its assets, undertakings and revenues with the repayment of any money borrowed together with interest thereon and may issue debentures, bonds or other securities in order to secure the repayment of any money borrowed together with

interest thereon and may do all other things necessary in connection with or incidental to such borrowings as are authorized by this section, subject to the approval of the Minister for the time being responsible for finance.

#### **19. Liability to pay tax, etc.**

Nothing in this Act shall exempt the Corporation from any tax, duty, rate, levy or other charge whatsoever, whether general or local.

#### **20. Accounts and audit**

(1) The Corporation shall keep proper accounts and records in relation thereto, and shall prepare in respect of each financial year a statement of accounts showing in detail the assets and liabilities (real and contingent) and income and expenditure of the Corporation, in a form which shall conform with the best commercial accounting standards applicable to the provision of telecommunications services.

(2) The accounts of the Corporation in respect of each financial year shall, within four months or such extended time after the end thereof as the Minister may direct, be audited by the Auditor-General.

(3) The Auditor-General shall report in respect of the accounts for each financial year, in addition to any other matter on which he deems it pertinent to comment, whether or not-

- (a) he has received all the information and explanations which, to the best of his knowledge and belief, were necessary for the performance of his duties as auditor;
- (b) the accounts and related records of the Corporation have been properly kept;
- (c) the Corporation has complied with all the financial provisions of this Act with which it is the duty of the Corporation to comply; and
- (d) the statement of accounts prepared by the Corporation was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Corporation.

(4) The report of the Auditor-General and a copy of the audited accounts shall, within seven days of the completion thereof, be forwarded to the Minister and to the Corporation.

(5) The Minister shall, within 30 days of receiving the report and a copy of the audited accounts, lay such report and accounts before the National Assembly.

### **PART VII General (ss 21-26)**

#### **21. Annual report**

(1) The Corporation shall, within a period of six months after the end of the financial year or within such longer period as the Minister may approve, submit to the Minister a comprehensive report on its operations during such year together with the auditors' report and the audited accounts as provided for in section 20, and the Corporation shall publish them in such manner as the Minister may specify.

(2) The Minister shall, within 30 days of his receiving the Corporation's report, lay such report before the National Assembly.

#### **22. Compulsory acquisition of land**

For the purposes of any written law for the time being in force relating to the compulsory acquisition of land for public purposes, the functions and operations of the Corporation shall be deemed to be public purposes.

#### **23. Resettlement measures**

If the operations of the Corporation make necessary the resettlement of any person dwelling upon any communally owned land, the terms of such resettlement shall be subject to the agreement of the Government and of the local authority of the area concerned.

#### **24. Compensation for loss or damage**

(1) In the exercise of its powers under this Act in relation to the execution of works or interference with property the Corporation shall cause as little detriment and inconvenience and do as little damage as possible, and shall make full compensation to all local and other

authorities and other persons who have sustained loss or damage for all loss or damage sustained by them by reason or in consequence of the exercise of such powers and, in default of agreement between the parties, the amount and application of such compensation shall be determined by arbitration in accordance with the provisions of the Arbitration Act.

(2) For the purpose of such arbitration the parties shall be deemed to be parties to a submission in which the reference is to two arbitrators.

**25. Power to call for information**

The Minister may require the Corporation to provide him with such information, concerning the operations, plans and financial accounts of the Corporation as he deems necessary.

**26. Protection from personal liability**

No matter or thing done by any member of the Corporation or by any officer or employee of the Corporation shall, if the matter or thing is done bona fide for the purpose of executing any provision of this Act, render such person or any person acting by his direction personally liable to any action, claim or demand whatsoever.