

EMERALD TOURIST RAILWAY

BY-LAW NO. 2

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*Emerald Tourist Railway Act 1977*

The Emerald Tourist Railway Board makes the following By-law:

Dated:

The common seal of the Emerald Tourist Railway Board was affixed to this By-law on  
..... in the presence of

..... Chairman

..... Secretary to the Board

The Minister for Tourism, the Hon S.M. Crabb, approves the By-law:

Dated:

..... Minister for Tourism

**By-law No. 2**

**PART 1 - PRELIMINARY**

**Title**

**101.** This By-law is the Emerald Tourist Railway By-law No. 2.

**Objective**

**102.** The objective of this By-law is to establish rules to be observed by all persons, whether passengers, visitors or otherwise, to ensure safe and equitable conduct on property of the Emerald Tourist Railway Board.

**Power**

**103.** This By-law is made under section 49 of the *Emerald Tourist Railway Act 1977*.

**Commencement and revocation**

**104.** (1) This By-law comes into operation on .....

(2) On the coming into operation of this By-law the Emerald Tourist Railway By-law No. 1 is revoked.

## **Definitions**

**105.** In this By-law:

**"Board"** means the Emerald Tourist Railway Board.

**"Employee"** means any person in the service of the Board either in a paid capacity or whilst actually on duty for the Board in a voluntary capacity.

**"Rail vehicle"** means any carriage, wagon, truck, maintenance machine or trolley which is used or intended for use by the Board on the railway.

**"Ticket"** means any ticket, pass, symbol or evidence of a right to travel as a passenger upon the railway.

**"Train"** means any locomotive or locomotive with attached rail vehicles operated by the Board for the conveyance of passengers or any materials, including any rail vehicle in the process of being attached or detached from a train, but does not include a trolley capable of being off tracked by two persons.

**"Vehicle"** has the same meaning as in the *Road Safety Act 1986*.

**"Visitor"** means a person present on the Board's property for legitimate purposes and who is not an employee or passenger.

## **Prosecution**

**106.** A prosecution for a breach of this By-law may be instituted by a police officer, or by any officer of the Board authorised under the seal of the Board, or by any member of the general public.

## PART 2 - PROVISIONS RELATING TO TICKETS

### **Ticket required**

**201.** (1) A person may make a journey in a rail vehicle without a ticket if:

- (a) before commencing the journey that person takes all reasonable steps to purchase a ticket; and
- (b) while making the journey that person has no reasonable opportunity to purchase a ticket; and
- (c) on completion of the journey that person takes all reasonable steps to purchase a ticket.

(2) Subject to sub-clause (1), a person who makes a journey in a rail vehicle without a valid ticket for that journey is guilty of an offence.

Penalty: \$200.

### **Production of ticket**

**202.** Subject to sub-clause (1) of Clause 201, upon request a passenger must produce to an employee a valid ticket for the journey the passenger is about to make or is making.

Penalty: \$200.

### **Collection of ticket**

**203.** Upon completion of a journey or part of a journey a passenger must if requested by an employee, submit the appropriate ticket or part of the ticket for collection by an employee.

Penalty: \$200.

### **Damaged ticket**

**204.** A ticket that has been so damaged or defaced or altered that the relevant information as to the authority of the passenger to travel is in doubt makes a passenger liable to payment of another fare for the journey undertaken or to be undertaken.

### **Refund**

**205.** A person must not with intent to defraud, obtain or attempt to obtain a refund of the surrender value of an unused ticket to which that person is not entitled.

Penalty: \$200.



### **PART 3 - CONDUCT OF PERSONS WHEN UPON BOARD TRAINS OR PROPERTY**

#### **Conduct on trains**

**301.** A person other than an employee engaged in the execution of a duty must not without lawful excuse:

- (a) enter or attempt to enter, join or attempt to join, or leave or attempt to leave a rail vehicle whilst it is in motion; or
- (b) open on any rail vehicle a door which is locked; or
- (c) lock on any rail vehicle a door which is unlocked; or
- (d) open or hold open on any rail vehicle which is in motion any door fitted to such rail vehicle so as to open outwards; or
- (e) travel or attempt to travel on a locomotive or on the roof, step or footboard of a rail vehicle or in any part of a rail vehicle other than a part appointed for the conveyance of passengers.

Penalty: \$200.

#### **Interfering with brakes**

**302.** A person must not without reasonable excuse apply or release any brake fitted to a rail vehicle or interfere in any way with any part of the braking equipment or fittings of any locomotive or rail vehicle.

Penalty: \$200.

#### **Smoking**

**303.** A person must not smoke in any of the Board's rail vehicles or premises where a notice is displayed stating that smoking is prohibited.

Penalty: \$50.

#### **Throwing articles**

**304.** A person must not throw or drop upon or from any rail vehicle or premises of the Board any article or thing which is by reason of its being dropped or thrown capable of causing injury or damage to or of endangering any person or property.

Penalty: \$200.

**Alcohol**

**305.** A person must not consume alcohol on any rail vehicle or premises of the Board unless authorised by the Board.

Penalty: \$100.

**Remaining on rail vehicles or premises**

**306.** A person who is not in possession of a valid ticket for a journey being made or about to be made must not remain in or upon any rail vehicle or premises of the Board after being requested by an employee to leave.

Penalty: \$100.

**Remaining on specific parts of rail vehicles**

**307.** A person must not remain on a platform, gangway or entrance of a rail vehicle after being requested by an employee to move.

Penalty: \$50.

**Firearms**

**308.** A person must not without written authority carry, bring or discharge or attempt to carry, bring or discharge any firearm in or upon any rail vehicle or premises of the Board.

Penalty: \$200.

**Dangerous articles or offensive weapons**

**309.** A person must not convey or attempt to convey any article, thing or package which by reason of its bulk, shape, nature or contents is likely to be a source of annoyance, danger or discomfort to other passengers or is capable of being used as an offensive weapon or of causing injury or damage or of endangering any person or property.

Penalty: \$200.

**Seats temporarily vacated**

**310.** When a passenger who is occupying a seat temporarily vacates that seat for any purpose, another person must not use it and refuse to give it up again to the original occupier.

Penalty: \$50.

**Reserved rail vehicles**

**311.** When a rail vehicle has been reserved for the exclusive use of a group, a person who is not a member of that group must not without the permission or direction of an employee enter or attempt to travel in that rail vehicle.

Penalty: \$50.

**Gambling or offensive conduct**

**312.** A person must not while in or upon any rail vehicle or premises of the Board:

- (a) gamble; or
- (b) use any abusive, indecent, insulting, obscene, profane or threatening language or gesture to the annoyance or hindrance of another person; or
- (c) behave in a disorderly, indecent, offensive or riotous manner; or
- (d) operate any radio, tape or cassette player, compact disc player or television receiver to the annoyance of another person.

Penalty: \$200.

**Trespass**

**313.** A person must not trespass upon any yards, sidings, railway or property belonging to the Board, or ride any machine or animal on any part of the Board's railway or premises without permission from the Board.

Penalty: \$200.

**Entry to non public areas**

**314.** A person must not enter any workshop, kiosk, storeroom, office or other building not provided for public use without the permission of an employee.

Penalty: \$200.

**Station entrances and exits**

**315.** A person must not without reasonable excuse enter or leave any station platform or other premises of the Board other than by the entrance or exit provided.

Penalty: \$100.

**Lighting or extinguishing lights**

**316.** A person other than an employee in the execution of a duty must not without reasonable excuse light or extinguish or otherwise interfere with any light which is fitted to any rail vehicle or situated on any premises of the Board.

Penalty: \$200.

**Indecent writing, mark or graffiti**

**317.** A person must not write, mark, draw or affix any graffiti, indecent, obscene, offensive or profane word, representation or character on or to any rail vehicle or premises of the Board.

Penalty: \$200.

**Lost property**

**318.** A person who finds in any rail vehicle or premises of the Board any property which has apparently been lost by another person must as soon as practicable give the property to an employee of the Board.

Penalty: \$50.

**Selling of goods**

**319.** A person other than employee in the execution of a duty must not in or upon any rail vehicle, premises or property of the Board, unless expressly authorised in writing by the Board:

- (a) sell or offer or expose for sale or hire any articles or goods of any description; or
- (b) solicit custom, hire or employment of any description.

Penalty: \$100.

**Distribution of literature**

**320.** A person other than an employee of the Board in the execution of a duty must not while on the premises of the Board offer, hand out or distribute any literature or printed matter of any description without the written permission of the Board.

Penalty: \$100.

## PART 4 - MOTOR VEHICLES

### Obey directions

**401.** The person in charge of a vehicle must while upon any premises under the control of the Board obey the reasonable directions of a Board employee or any member of the Victoria police.

Penalty: \$100.

### Parking of vehicles

**402.** The parking of vehicles on the Board's premises must be only in areas designated as parking areas.

Penalty: \$50.

### Vehicles at level crossings

**403.** A person must not drive or attempt to drive or convey or attempt to convey across any crossing a vehicle, machine or contrivance:

- (a) if a train is visible or emits an audible warning signal and there is danger of collision with the train; or
- (b) contrary to any instruction or signal given by an authorised employee or any notice in writing at the crossing.

Penalty: \$200.

### Load limits at level crossings

**404.** A person must not drive or attempt to drive or convey or attempt to convey across any crossing a vehicle, machine or contrivance which will cause or create a risk of causing an obstruction to or interference with or displacement of the railway line unless at least 48 hours before the proposed movement that person obtains permission to do so from the Board.

Penalty: \$200.

### Driving to the public danger

**405.** A person must not while in or about any premises of the Board drive any vehicle or ride any animal in a manner which is likely to endanger any person or property or at a speed exceeding the maximum permissible speed indicated by a sign.

Penalty: \$200.

## **PART 5 - PROTECTION OF THE PROPERTY OF THE BOARD**

### **Damage to property**

**501.** A person must not without lawful excuse destroy, damage, deface, mutilate or remove any rail vehicle, structure, fitting, or other property of the Board or any tree or other plant growing on land owned by or under the control of the Board.

Penalty: \$200.

### **Interference with railway equipment**

**502.** A person other than an employee in the execution of a duty must not without lawful excuse:

- (a) operate or otherwise interfere with any signal, brake, points, switch or any other electrical or mechanical machinery or apparatus which is in or upon or is affixed to any rail vehicle or premises of the Board; or
- (b) place any obstruction, stone, dog spike, fish plate, sleeper, article or thing on the railway line.

Penalty: \$200.

### **Fires**

**503.** A person other than an authorised employee of the Board must not light or allow to remain alight on the Board's property any fire other than in a properly constructed barbecue, fireplace or incinerator.

Penalty: \$200.

### **Poison**

**504.** A person must not unless authorised by the Board place any poison or poisoned substance on or upon any premises of the Board.

Penalty: \$100.

### **Posting of bills and signs**

**505.** A person must not post any bill or erect any sign on any rail vehicle, building or any other fixture or tree on the Board's property without the written permission of the Board.

Penalty: \$50.

**Erection of structure**

**506.** A person must not erect any structure on any part of the Board's property without the written permission of the Board.

Penalty: \$50.

**Dumping of soil or rubbish**

**507.** A person must not without the written authority of the Board dump any soil, rock, builders' rubbish, motor car bodies, refuse, article or thing on any part of the Board's property.

Penalty: \$200.

**Discarding of refuse**

**508.** A person must not discard or dispose of any carton, paper, wrapping, can, other refuse or litter except into rubbish containers provided for this purpose.

Penalty: \$100.

**Removal of natural materials**

**509.** A person must not without the written authority of the Board remove any soil, rock, plants or other natural material from the Board's property.

Penalty: \$200.

**PART 6 - ANIMALS ON THE BOARD'S PROPERTY****Dogs**

**601.** (1) A person must not bring any dog onto land or premises of the Board without the permission of an authorised employee and then only if the dog is properly controlled by a leash or other device.

Penalty: \$50.

(2) The provisions of sub-clause (1) do not apply to:

- (a) a blind person accompanied by a guide dog; or
- (b) a person whose hearing is impaired and who is accompanied by a guide dog; or
- (c) a person accompanied by a guide dog in training.

## **PART 7 - FARES**

### **Fixing of fares**

**701.** The fares to be charged for travel on its services will be determined by the Board.

### **Concession fares**

**702.** The Board may grant concession fares as it deems appropriate.

### **Age of adult and child**

**703.** For the purposes of this By-law a child is a person less than 15 years of age.

### **Child under four years old**

**704.** A child under the age of four years is to be carried free of charge.

### **Board's guests**

**705.** Guests of the Board or of the Puffing Billy Preservation Society may be carried on any of the Board's regular trains and may be issued with a complimentary ticket.

### **Charges for special trains**

**706.** The charges for the hire of special trains will be as determined from time to time by the Board.

### **Fare refunds**

**707.** Any refund payable to passengers in the event of the Board's inability to provide or complete a journey shall be determined by an authorised employee of the Board.

## **PART 8 - CONDITIONS OF CARRIAGE OF PASSENGERS**

### **Mode of transport**

**801.** The Board may use or substitute any mode of transport to carry passengers and may during any journey change the mode of transport or motive power.

### **Time of departure or arrival**

**802.** The Board is not responsible for any consequences arising from any variation in the time of arrival at or departure from any station or point.



## PART 9 - MISCELLANEOUS

### **Direction by employee**

**901.** A person while on the Board's trains or premises must at all times observe and comply with any reasonable order or direction of an employee of the Board or by a member of the Victoria police whether or not that direction is to enforce compliance with any section of the By-law.

### **Removal of persons**

- 902.** (1) A person who persists in contravening any provision of this By-law after being requested by an employee to refrain from doing so may be requested by an employee to leave any rail vehicle or premises of the Board.
- (2) A person who fails to comply with a request to leave made under sub-section (1) immediately upon a request being made may at the request of an employee be removed from any rail vehicle or premises of the Board by a member of the Victoria police without prejudice to any other penalty which may have been incurred by the person under this By-law.

Penalty: \$100.

### **Unauthorised stopping of train**

**903.** A person must not without reasonable excuse cause or endeavour to cause the employees who are in charge of a train which is in motion on the railway to stop the train.

Penalty: \$100.

### **By-law breach by child**

**904.** A person must not without reasonable excuse knowingly permit a child under that person's control to do or omit anything which if done or omitted by that person would be a breach of this By-law.

Penalty: \$50.