

TITLE 9

Chapter 9:18

PREVIOUS CHAPTER**STOCK THEFT ACT**

Acts 21/1959, 53/1971, 57/1972 (s. 3), 26/1975, 10/1976, 37/1977 (s. 5), 10/1982, 15/1982, 22/2001; R.G.N.s 153/1963, 684/1974.

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AN ACT to consolidate and amend the law relating to theft of stock and produce.

[Date of commencement: 1st May, 1959.]

1 Short title

This Act may be cited as the Stock Theft Act [Chapter 9:18].

2 Interpretation

In this Act—

“produce” means the whole or any part of any skin, hide, horn or egg of stock or any wool or mohair;

“public sale” means a sale effected—

- (a) in the ordinary course of business at any market established under any enactment; or
- (b) lawfully in any shop in the ordinary course of the business of such shop; or
- (c) by an auctioneer at a public auction; or
- (d) in pursuance of an order of a competent court;

“special jurisdiction” means special jurisdiction on summary trial or on remittal of the case by the Attorney-General for trial or sentence;

“stock” means—

- (a) any horse, mule, ass, bovine, sheep, goat, pig, poultry, pigeon or chinchilla; or
- (b) any domesticated game; or
- (c) the carcass or any portion of a carcass of any stock as defined in paragraph (a) or (b) which has been slaughtered.

3 Application of Act

(1) This Act shall not apply to—

- (a) any carcass of stock or any portion of such a carcass or to any produce which had been cooked or processed at the time it is alleged to have been stolen; or
- (b) the carcass or any portion of the carcass of an animal which, at the time of slaughter, was not in the lawful possession of the person from whom such carcass or portion is alleged to have been stolen; or
- (c) the theft of any produce from a person other than the owner or person having the lawful custody of the stock from which such produce is derived or obtained.

(2) Subject to subsection (1), this Act shall apply in every case where a person is indicted, summoned or charged in respect of—

- (a) the theft of stock or produce; or
 - (b) receiving any stolen stock or produce, knowing such stock or produce to have been stolen; or
 - (c) an attempt, conspiracy or incitement to commit an offence referred to in paragraph (a) or (b); or
 - (d) his being an accessory after the fact to an offence referred to in paragraph (a), (b) or (c);
- notwithstanding that this Act is not referred to in the indictment, summons or charge concerned.

4 Failure to give satisfactory account of possession of stock or produce

(1) Any person who—

- (a) is found in possession of; or
- (b) has been in possession of;

stock or produce in circumstances which give rise, either at the time of the possession or at any time thereafter, to a reasonable suspicion that at the time of such possession the stock or produce was stolen and who is unable at any time to give a satisfactory account of his possession shall be guilty of an offence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

5 Acquisition of stolen stock or produce

(1) Any person who acquires or receives into his possession from any other person any stolen stock or produce shall be guilty of an offence unless he proves, to the satisfaction of the court, that he had reasonable cause for believing at the time of acquiring or receiving such stock or produce that it was the property of the person from whom he acquired or received it or that such person was duly authorized by the owner thereof to deal with it or dispose of it.

(2) Subsection (1) shall not apply to stock or produce purchased at a public sale.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

6 Entering enclosed land with intent to steal stock or produce

(1) In subsection (2)—

“sufficient fence” means—

- (a) when applied to a wire strand fence along the outer boundaries of any farm, a fence of not fewer than four wires and not less than one metre high;
- (b) when applied in any case other than the case mentioned in paragraph (a), any fence, wall or hedge or any natural boundary through or across which no stock, other than poultry, pigeons, chinchillas or domesticated guinea fowl, could ordinarily pass.

(2) Any person who enters any farm or any land enclosed on all sides with a sufficient fence, or any stable, byre, fold, pen, sty, loft, coop, run, building, kraal or other enclosure with intent to steal any stock or produce therefrom shall be guilty of an offence.

(3) When any person is charged with a contravention of subsection (2), the onus shall be on such person to prove that he had no intention of stealing any stock or produce unless such person was found proceeding along a road or path traversing the farm or land.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

7 Register to be kept by butchers and buyers of skins or hides

(1) In this section—

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may from time to time assign the administration of this Act;

“stock” means any bovine, sheep or goat, and any reference in this section to “skin” or “hide” shall be construed as a reference to the skin or hide of a bovine, sheep, or goat.

(2) Subject to this section, every butcher and every buyer of skins or hides shall keep a register in which shall be recorded—

(a) the number of skins and hides of stock slaughtered by him; and

(b) the number of skins and hides obtained by him from any other person;

and

(c) the names and addresses of all persons from whom he obtained the stock mentioned in paragraph (a) or the skins and hides mentioned in paragraph (b); and

(d) particulars of the colour, brands and markings of or on every skin and hide mentioned in this subsection; and

(e) such other particulars as the Minister may, by notice in a statutory instrument, prescribe.

(3) The register to be kept in terms of subsection (2) shall be kept in such form as the Minister may, by notice in a statutory instrument, prescribe.

(4) Every butcher and every buyer of skins or hides shall at all reasonable times permit any police officer or owner of stock to inspect the register kept in terms of subsection (2).

(5) Any butcher or buyer of skins or hides who—

(a) fails to keep a register in accordance with subsection (2); or

(b) refuses to permit a police officer or owner of stock to inspect a register kept in terms of subsection (2) or hinders or obstructs any such inspection; or

(c) makes a false entry in a register kept in terms of subsection (2), knowing such entry to be false; shall be guilty of an offence.

(6) The Minister may, by notice in writing, exempt from the operation of subsections (2) and (4) any butcher or buyer of skins or hides.

(7) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

8 Verdicts on charge of theft of stock or produce

(1) Without derogation from the Criminal Procedure and Evidence Act [Chapter 9:07], any person who is charged with the theft of stock or produce may be found guilty of a contravention of section four, five or six.

(2) Any person charged with the theft of stock or produce belonging to a particular person may be found guilty of theft or any other offence of which he may be found guilty in terms of subsection (1) or the Criminal Procedure and Evidence Act [Chapter 9:07], notwithstanding the fact that the prosecution has failed to prove that such stock or produce actually did belong to such particular person.

9 Special jurisdiction of magistrates courts

Notwithstanding anything in the Magistrates Court Act [Chapter 7:10], magistrates shall have special jurisdiction to impose the following punishments in respect of offences referred to in section eleven, subject to the maximum penalties for such offences prescribed in that section—

(a) in the case of provincial magistrates and senior magistrates, a fine not exceeding level eleven or imprisonment for a period not exceeding six years or both

such fine and such imprisonment;

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(b) in the case of magistrates other than magistrates referred to in paragraph (a), a fine not exceeding level eleven or imprisonment for a period not exceeding four years or both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

10 Compensatory fine

(1) In any case in which a person is convicted of any offence referred to in subsection (1), (2) or (3) of section eleven, the court may impose a fine upon the person convicted by way of compensation, in addition to any sentence which it may have imposed upon him, if—

(a) the person convicted is of or above the age of eighteen years and is unable to satisfy the court that he has not or is unable to obtain the means of satisfying any fine which may be imposed under this section; and

(b) the court is satisfied that the stock or produce which forms the subject-matter of the charge is the property of some other person; and

(c) the stock or produce has not been recovered or, if recovered, is worth less than its market value at the time of the theft; and

(d) the owner of such stock or produce does not apply under the Criminal Procedure and Evidence Act [Chapter 9:07] for compensation.

(2) The fine imposed in terms of subsection (1) shall not exceed—

(a) where the stock or produce has not been recovered, an amount equal to the market value of such stock or produce at the time of the theft;

(b) where the stock or produce has been recovered, an amount equal to the difference between the market value thereof at the time of the theft and the value of such stock or produce when it was recovered;

less, in either case, the amount of any compensation which may have been paid to the owner by or on behalf of the person convicted.

(3) A fine imposed in terms of this section may be recovered in the manner provided by section 348 of the Criminal Procedure and Evidence Act [Chapter 9:07], and any amount so recovered shall be paid to the owner of the stolen stock or produce, subject to the owner giving security de restituyendo in case the judgment of the court is reversed on appeal or review.

(4) If the court imposes a fine in terms of this section it shall, at the same time, sentence the person convicted to a term of imprisonment not exceeding twelve months in default of payment thereof or recovery thereof in terms of subsection (3).

(5) If some other sentence of imprisonment for the offence has been imposed upon the person convicted, then any sentence of imprisonment imposed in terms of subsection (4) shall be served after the expiration of such other sentence of imprisonment.

(6) In addition to the special jurisdiction conferred in terms of section nine, a magistrate shall have special jurisdiction to impose a fine and sentence of imprisonment in terms of this section.

11 Theft of or receiving stolen stock

(1) Any person who is convicted of—

(a) the theft of any stock or produce; or

(b) receiving any stolen stock or produce, knowing such stock or produce to have been stolen;

shall be liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six years or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2)

(3)

(4)

[Subsections (2), (3) and (4) repealed by Act 22 of 2001, with effect from the 20th

May 2002]

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