

No. 57, 1959.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

# ACT

To consolidate and amend the laws relating to the theft of stock and produce.

(English text signed by the Governor-General.)  
(Assented to 27th June, 1959.)

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

## Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) "Minister" means the Minister of Justice; (i)
- (ii) "non-European" means a person other than a white person as defined in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950); (ii)
- (iii) "produce" means the whole or any part of any skins, hides or horns of stock, and any wool, mohair or ostrich feathers; (iv)
- (iv) "public sale" means a sale effected—
  - (a) at any public market; or
  - (b) by any shopkeeper during the hours when his shop may in terms of any law remain open for the transaction of business; or
  - (c) by a duly licensed auctioneer at a public auction; or
  - (d) in pursuance of an order of a competent court; (iii)
- (v) "stock" means any horse, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, pig, poultry, domesticated ostrich, domesticated game or the carcase or portion of the carcase of any such stock; (v)
- (vi) "sufficient fence" means any wire fence, or any other fence, wall or hedge through which no stock could pass without breaking it, or any natural boundary through or across which no sheep would ordinarily pass. (vi)

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

2. Any person who is found in possession of stock or produce in regard to which there is reasonable suspicion that it has been stolen and is unable to give a satisfactory account of such possession shall be guilty of an offence.

Absence of reasonable cause for believing stock or produce properly acquired.

3. Any person who in any manner, otherwise than at a public sale, acquires or receives into his possession from any other person stolen stock or stolen produce without having reasonable cause, proof of which shall be on such firstmentioned person, for believing, at the time of such acquisition or receipt, that such stock or produce is the property of the person from whom he acquires or receives it or that such person has been duly authorized by the owner thereof to deal with it or dispose of it shall be guilty of an offence.

Entering enclosed land or kraal, shed, stable or other walled place with intent to steal stock or produce.

4. (1) Any person who in any manner enters any land enclosed on all sides with a sufficient fence or any kraal, shed, stable or other walled place with intent to steal any stock or produce on such land or in such kraal, shed, stable or other walled place, shall be guilty of an offence.

(2) When any person is charged with a contravention of sub-section (1) the onus shall be upon him to prove that he had no intention to steal any such stock or produce unless he was found proceeding along any road or thoroughfare traversing such land.

Delivery of stock or produce between sunset and sunrise.

5. Any person who for purposes of trade makes or accepts delivery between the hours of sunset and sunrise of any stock or produce sold or purchased or otherwise disposed of or acquired by him in any other manner than at a public sale shall be guilty of an offence.

Document of identification to be furnished by person who disposes of stock.

6. (1) Any person (including any auctioneer, agent or market master but excluding any non-European who is not the registered owner of any land) who sells, barter, gives or in any other manner disposes of any stock to any other person shall at the time of delivery to such other person of the stock so sold, bartered, given or disposed of, furnish such other person with a document (hereinafter called a document of identification)—

(a) stating—

- (i) his full name and address and, if the stock was sold, bartered, given or disposed of on behalf of some other person, also the name and address of such other person;
- (ii) such particulars in regard to such stock as may be required to be stated therein in terms of any regulation made under section sixteen;

(b) certifying that such stock is his property or that he is duly authorized by the owner thereof to deal with or dispose of it.

(2) No person to whom any stock has been sold, bartered, given or otherwise disposed of and to whom a document of identification is required to be furnished in terms of sub-section (1) shall take delivery of such stock without obtaining such document at the time of delivery.

(3) Any person to whom a document of identification has been furnished in terms of sub-section (1) shall retain it in his possession for a period of at least three months.

(4) Any person may within the said three months demand an inspection of such document, and upon such demand the person having possession of such document shall produce it for inspection to the person making the demand.

(5) Any person who—

- (a) contravenes or fails to comply with any provision of this section;
- (b) fails to comply with any demand made under sub-section (4); or
- (c) wilfully makes any false statement in a document of identification,

shall be guilty of an offence.

(6) Any person who delivers any stock to an auctioneer, agent or market master for the purpose of sale or disposal in any other manner, shall, for the purposes of this section, be deemed to have disposed of such stock to such auctioneer, agent or market master.

Acquisition of stock or produce from certain persons whose places of residence are unknown.

7. (1) Any person who in any manner (otherwise than at a public sale) acquires or receives into his possession or any auctioneer, agent or market master who receives into his possession for the purpose of sale, from any non-European who is not, to his knowledge, the registered owner of any land or from any person who has no known place of residence, any stock or produce without obtaining at the time of delivery of such stock or produce to him a certificate, issued not more than thirty days before the delivery, from—

- (a) (in the case of such non-European) the employer, chief or headman of such non-European, a justice of the peace, a policeman of or above the rank of sergeant, a dipping foreman, a stock inspector or two residents of substantial means of the neighbourhood in which the transaction takes place; or
- (b) (in the case of such other person) a justice of the peace, a policeman of or above the rank of sergeant, two residents of substantial means of the neighbourhood in which the transaction takes place or the person from whom such other person purchased or acquired such stock or produce,

giving a description of the stock or produce and certifying that to the best of his or their knowledge and belief such non-European or other person is entitled to dispose of or deal with such stock or produce, shall be guilty of an offence.

(2) Any person who has obtained such a certificate shall retain it in his possession for a period of at least three months.

(3) Any person may within the said three months demand an inspection of such certificate, and upon such demand the person having possession of such certificate shall produce it for inspection to the person making the demand.

(4) Any person who fails to comply with the provisions of sub-section (2) or any demand made under sub-section (3) or who wilfully makes any false statement in a certificate referred to in sub-section (1) shall be guilty of an offence.

Stock or produce driven, conveyed or transported on or along public roads.

8. (1) No persons shall drive, convey or transport any stock or produce of which he is not the owner on or along any public road unless he has in his possession a certificate (hereinafter called a removal certificate) issued to him by the owner of such stock or produce or the duly authorized agent of such owner, in which is stated—

- (a) the name and address of the person who issued the certificate;
- (b) the name and address of the owner of such stock or produce;
- (c) such particulars in regard to such stock or produce as may be required to be stated therein in terms of any regulation made under section *sixteen*;
- (d) the place from which and the place to which such stock or produce is being driven, conveyed or transported;
- (e) the name of the driver, conveyer or transporter; and
- (f) the date of issue thereof:

Provided that the provisions of this sub-section shall not apply in respect of any stock or produce which is being driven, conveyed or transported, with the consent of the owner thereof or his duly authorized agent, on or along such portion of any public road as traverses land which belongs to or is occupied by such owner or agent.

(2) No person shall cause or permit any stock or produce belonging to him to be driven, conveyed or transported by any other person on or along any public road without furnishing him with a removal certificate which he is required to have in terms of sub-section (1).

(3) Any justice of the peace, policeman, or owner, lessee or occupier of land may demand from any person who is required in terms of sub-section (1) to have in his possession a removal certificate, an inspection of such certificate, and upon such demand the person having possession of such certificate shall produce it for inspection to the person making the demand.

(4) No person who is or was employed by an owner or occupier of any land shall remove any stock or produce owned by him or under his control from any land owned or occupied by such owner or occupier unless he is in possession of a document furnished by such owner or occupier, the agent of such owner or occupier, or a policeman on a date not more than seven days before the removal, which date shall be stated in the document, giving a description of such stock or produce and certifying that he was to the best knowledge and belief of the person furnishing the document entitled to remove such stock or produce on the said date.

(5) Any owner or occupier of land, or any agent of such owner or occupier, shall, when requested to do so by any person who is or was in the employ of such owner or occupier and who is in possession on land owned or occupied by such owner or occupier of any stock or produce which he desires to remove therefrom, forthwith furnish him with any document which he may require in terms of sub-section (4).

(6) Any person who has obtained such a document as is referred to in sub-section (4) shall retain it in his possession for a period of at least one month.

(7) Any justice of the peace, policeman, or owner, lessee or occupier of land may within the said month demand an inspection of such document, and upon such demand the person having possession of such certificate shall produce it for inspection to the person making the demand; and

(8) Any person who—

- (a) contravenes or fails to comply with any provision of this section;
- (b) fails to comply with any demand made under sub-section (3) or (7);
- (c) wilfully makes any false statement in a removal certificate or a document furnished in terms of sub-section (5); or
- (d) falsely declares that he is the owner of stock or produce which is being driven, conveyed or transported by him on or along any public road,

shall be guilty of an offence.

Arrest and search without warrant.

9. (1) Any person may, without warrant, arrest any other person upon reasonable suspicion that such other person has committed the offence mentioned in section *two* or *four*.

(2) Whenever any justice of the peace, policeman, or owner, lessee or occupier of land reasonably suspects that any person has in or under any receptacle or covering or in or upon any vehicle any stock or produce in regard to which an offence has been committed, such justice of the peace, policeman, owner, lessee or occupier may without warrant search such receptacle or vehicle and remove such covering, and if he thereupon finds any stock or produce in regard to which he reasonably suspects an offence to have been committed, he may without warrant arrest such person and seize such vehicle or receptacle and shall as soon as possible convey such person and the stock or produce so found and the vehicle or receptacle so seized to a police station or charge office.

Malicious arrest and search.

10. (1) Any person who, under colour of this Act, wrongfully and maliciously or without probable cause arrests any other person or effects any search shall be guilty of an offence.

(2) On any charge under this section the onus of proof that the arrest or search which is the subject of the charge was not wrongful and malicious or without probable cause shall be upon the accused.

(3) Nothing in this section contained shall be construed as taking away or diminishing any civil right or liability in respect of a wrongful or malicious arrest.

Verdicts on a charge of theft of stock or produce.

11. (1) Any person who is charged with the theft of stock or produce may be found guilty of—

(a) the theft of or an attempt to commit the theft of such stock or produce; or

(b) receiving such stock or produce knowing the same to have been stolen; or

(c) inciting, instigating, commanding or procuring another person—

(i) to steal such stock or produce; or

(ii) to receive such stock or produce; or

(d) knowingly disposing of, or knowingly assisting in the disposal of, stock or produce which has been stolen or which has been received with knowledge of it having been stolen; or

(e) contravening section *two* or *three*.

(2) Any person charged with the theft of stock or produce belonging to a particular person may be found guilty of any of the offences mentioned in sub-section (1), notwithstanding the fact that the prosecution has failed to prove that such stock or produce actually did belong to such particular person.

Act applicable in all cases where charge is one of theft of stock or produce.

12. The provisions of this Act shall apply in every case where an accused is indicted, summoned or charged in respect of the theft of stock or produce, notwithstanding the fact that this Act is not referred to in the indictment, summons or charge.

Jurisdiction of magistrates' courts in respect of punishments.

13. Notwithstanding anything to the contrary contained in any other law, magistrates' courts shall have jurisdiction to impose—

(a) in the case of a first conviction for any offence mentioned in paragraph (a), (b), (c) or (d) of sub-section (1) of section *eleven*—

(i) imprisonment for any period not exceeding two years; or

(ii) imprisonment with spare diet or solitary confinement or both for any period not exceeding six months; or

(iii) whipping not exceeding ten strokes; or

(iv) both such whipping and imprisonment for any period not exceeding two years; or

(v) a fine not exceeding five hundred pounds; or

(vi) both such fine and imprisonment for any period not exceeding two years;

(b) in the case of a second or subsequent conviction for any such offence—

(i) imprisonment for any period not exceeding three years; or

(ii) whipping not exceeding ten strokes; or

(iii) both such whipping and imprisonment for any period not exceeding three years;

(c) any penalty prescribed by section *fourteen*.

Penalty where not otherwise provided for.

14. Any person who is convicted of an offence under this Act for which no penalty is otherwise provided shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Fine in addition to sentence in certain cases.

15. (1) In all cases of a conviction for any offence mentioned in paragraph (a), (b), (c) or (d) of sub-section (1) of section eleven in which—

(a) the court is satisfied that the stock or produce which forms the subject matter of the charge is the property of some particular person;

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

(c) the owner of such stock or produce does not apply under the provisions of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), for compensation, the court shall, in addition to any sentence which it may have imposed upon a person convicted of any such offence, who is twenty-one years of age or older—

(i) if the stock or produce has not been recovered, sentence the said person to a fine not exceeding the market value of the stock or produce at the time when it was stolen; or

(ii) if the stock or produce has been recovered and is worth less than its market value at the time when it was stolen, sentence the said person to a fine not exceeding the difference between the said market value and the value of the stock or produce when it was recovered,

and in either case the court shall sentence the said person to a term of imprisonment not exceeding twelve months, if the said fine is not paid or is not recovered under sub-section (2), and if the court has imposed that sentence in addition to any other sentence of imprisonment which it imposed for any such offence as aforesaid, the said person shall serve the additional sentence after the expiration of the said other sentence except where the execution of that other sentence has been suspended in which case he shall commence to serve the additional sentence forthwith: Provided that, if the convicted person or any other person acting on behalf of the convicted person has compensated the owner of the stolen stock or produce in any way for its loss or depreciation, a fine imposed under paragraph (i) shall not exceed the amount (if any) by which the compensation fell short of the said market value, and a fine imposed under paragraph (ii) shall not exceed the amount (if any) by which the compensation fell short of the said difference.

(2) Such fine may be recovered in the manner provided by section three hundred and thirty-seven of the Criminal Procedure Act, 1955, and any amount so recovered shall be paid to the owner of the stolen stock or produce subject to the said owner giving security *de restituendo* in case the judgment of the said court is reversed on appeal or review.

(3) The provisions of this section shall not apply in the case of any person sentenced to whipping without imprisonment, unless it is proved that such person has the means of satisfying any fine imposed thereunder.

Regulations.

16. The Minister may make regulations as to the particulars to be stated—

(a) in regard to stock in the document of identification referred to in section six;

(b) in regard to stock or produce in the removal certificate referred to in section eight.

Provisions of Act may be made applicable in respect of farm produce not mentioned in definition of produce.

17. (1) The Minister may by notice in the *Gazette* declare that any or all of the provisions of this Act relating to produce shall also apply, either generally or in any area specified in the notice or any area other than an area so specified, in respect of any such class of farm produce not mentioned in the definition of "produce" in section one as is specified in the notice.

(2) The Minister may in like manner amend or repeal any such notice.

Application of sections 5, 6, 7 and 8.

18. (1) The Minister may by notice in the *Gazette* exclude from the operation of any or all of the provisions of sections *five, six, seven and eight*—

- (a) any area specified in the notice or any area other than an area so specified; or
- (b) any stock or produce or class of stock or produce either generally or in respect of any area specified in the notice or any area other than an area so specified.

(2) The Minister may by notice in the *Gazette*, and on such conditions as he deems fit, exempt any person or class of persons specified in the notice, either generally or under such circumstances or in respect of such stock or produce or class of stock or produce as may be specified in the notice, from compliance with any or all of the provisions of sections *five, six, seven and eight*.

(3) The Minister may by notice in the *Gazette* amend or repeal any notice issued in terms of this section.

Certain provisions of Transkeian Territories Penal Code may be made applicable in certain areas.

19. The Governor-General may by proclamation in the *Gazette* extend the operation of the provisions of sections *two hundred, two hundred and one and two hundred and two* of the Native Territories Penal Code (Act No. 24 of 1886 of the Cape of Good Hope) as read with the Transkeian Territories Penal Code Amendment Act, 1898 (Act No. 41 of 1898 of the Cape of Good Hope) to any area within a released area or scheduled native area as defined in the Native Trust and Land Act, 1936 (Act No. 18 of 1936), specified in the proclamation, and may in like manner amend or repeal any such proclamation.

Repeal or amendment of laws.

20. The laws specified in the Schedule are hereby repealed or amended to the extent set out in the fourth column of the Schedule.

Short title and date of commencement.

21. This Act shall be called the Stock Theft Act, 1959, and shall come into operation upon a date to be fixed by the Governor-General by proclamation in the *Gazette*.

## Schedule.

## LAWS REPEALED OR AMENDED.

Province or Union.	Number and date of law.	Title or subject of law.	Extent of repeal or amendment.
Cape of Good Hope.	Act No. 14 of 1870.	The Cattle Removal Act, 1870.	The repeal of the whole.
Cape of Good Hope.	Act No. 12 of 1885.	Cattle and Stock Definitions Amendment Act, 1885.	The repeal of the whole.
Cape of Good Hope.	Act No. 20 of 1889.	The Cattle Removal Amendment Act, 1889.	The repeal of the whole.
Cape of Good Hope.	Act No. 12 of 1891.	The Cattle Removal Amendment Act, 1891.	The repeal of the whole.
Cape of Good Hope.	Act No. 7 of 1896.	The Cattle Removal Acts Extension Act, 1896.	The repeal of the whole.
Natal .. ..	Act No. 1 of 1899.	Cattle Stealing Act, 1898.	The repeal of sections <i>six to thirty-three</i> , inclusive, and section <i>thirty-six</i> ; the deletion in section <i>thirty-seven</i> of the words "and the passes therein referred to"; and the deletion in section <i>thirty-eight</i> of the words "together with the passes".
Natal .. ..	Act No. 41 of 1905.	To amend the Cattle Stealing Act, 1898.	The repeal of section <i>five</i> .
Orange State.	Free Chapter CXXXIV of Law Book.	To provide against Theft of Hides, Mohair, Wool and Ostrich Feathers.	The repeal of the whole.
Orange State.	Free Law No. 4 of 1895.	Law Supplementing and Amending Part 2 of Chapter CXXXIII of the Law Book.	The repeal of sections <i>three to seven</i> , inclusive.
Transvaal ..	Ordinance No. 6 of 1904.	Stock Theft Ordinance, 1904.	The repeal of sections <i>twenty-eight, twenty-nine</i> and <i>thirty</i> .
Union .. ..	Act No. 26 of 1923.	Stock Theft Act, 1923.	The repeal of the whole.
Union .. ..	Act No. 16 of 1942.	Stock Theft Amendment Act, 1942.	The repeal of the whole.
Union .. ..	Act No. 68 of 1957.	General Law Amendment Act, 1957.	The repeal of section <i>twenty-eight</i> .