

STOCK THEFT ACT 57 OF 1959

[ASSENTED TO 27 JUNE 1959]

[DATE OF COMMENCEMENT: 1 APRIL 1962]

(English text signed by the Governor-General)

as amended by

General Law Amendment Act 80 of 1964
 General Law Amendment Act 102 of 1972
 Criminal Law Amendment Act 59 of 1983
 Stock Theft Amendment Act 32 of 1986
 Stock Theft Amendment Act 28 of 1990
 Abolition of Racially Based Land Measures Act 108 of 1991
 General Law Third Amendment Act 129 of 1993
 Abolition of Corporal Punishment Act 33 of 1997
 Judicial Matters Amendment Act 62 of 2000
 Judicial Matters Amendment Act 55 of 2002

Regulations under this Act

ACT

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

1 Definitions

In this Act, unless the context otherwise indicates-

'Minister' ¹means the Minister of Justice;

'Non-European'

[Definition of 'non-European' deleted by s. 2 of Act 59 of 1983 .]

'produce' means the whole or any part of any skins, hides or horns of stock, and any wool, mohair or ostrich feathers;

'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;

'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;

'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.

¹ Administration of Act and powers and functions entrusted by ss. 16-18 transferred to the Cabinet member responsible for policing by Proc R46 in GG 34535 of 19 August 2011

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

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.

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

(1) Any person who in any manner, otherwise than at a public sale, acquires or receives into his or her possession from any other person stolen stock or stolen produce without having reasonable cause for believing, at the time of such acquisition or receipt, that such stock or produce is the property of the person from whom he or she 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.

(2) In the absence of evidence to the contrary which raises a reasonable doubt, proof of possession as contemplated in subsection (1) shall be sufficient evidence of the absence of reasonable cause.

[S. 3 substituted by s. 2 of Act 55 of 2002 .]

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

(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 subsection (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.

5

[S. 5 repealed by s. 16 of Act 129 of 1993 .]

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

(1) Any person (including any auctioneer, agent or market master 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*;
- (iii) the full name and address of the person to whom the stock was sold, bartered, given or disposed of;
[Sub-para. (iii) added by s. 1 (a) of Act 28 of 1990 .]
- (iv) the date on which the stock was sold, bartered, given or disposed of;
[Sub-para. (iv) added by s. 1 (a) of Act 28 of 1990 .]

(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.

[Sub-s. (1) amended by s. 3 of Act 59 of 1983 .]

(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 subsection (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 subsection (1) shall retain it in his possession for a period of at least one year.

[Sub-s. (3) substituted by s. 1 (b) of Act 28 of 1990 .]

(4) Any person may within the period referred to in subsection (3) 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.

[Sub-s. (4) substituted by s. 1 (b) of Act 28 of 1990 .]

(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 subsection (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.

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

(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 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) the employer, chief, headman or subheadman of the person concerned or a deputy of such chief or an 'official witness', as defined in Chapter 1 of the Code of Zulu Law, as referred to in section 24 of the Black Administration Act, 1927 (Act 38 of 1927);
- (b) a justice of the peace;
- (c) a policeman of or above the rank of sergeant;
- (d) a dipping foreman;
- (e) a stock inspector;
- (f) two residents of substantial means of the neighbourhood in which the transaction takes place; or
- (g) the person from whom such 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 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 one year.

[Sub-s. (2) substituted by s. 2 of Act 28 of 1990 .]

(3) Any person may within the period referred to in subsection (2) 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.

[Sub-s. (3) substituted by s. 2 of Act 28 of 1990 .]

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

[S. 7 amended by s. 38 of Act 80 of 1964 and substituted by s. 4 of Act 59 of 1983 .]

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

(1) No person 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;
[Para. (e) substituted by s. 3 (a) of Act 28 of 1990 .]
- (f) the date of issue thereof; and
[Para. (f) substituted by s. 3 (a) of Act 28 of 1990 .]
- (g) if applicable, the registration number, model and make of the vehicle with which the stock or produce is being conveyed or transported:
[Para. (g) added by s. 3 (a) of Act 28 of 1990 .]

Provided that the provisions of this subsection 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 of which he is the owner 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 subsection (1).

[Sub-s. (2) substituted by s. 5 (a) of Act 59 of 1983 .]

(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 subsection (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 subsection (4).

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

[Sub-s. (6) substituted by s. 3 (b) of Act 28 of 1990 .]

(7) Any justice of the peace, policeman, or owner, lessee or occupier of land, may within the period referred to in subsection (6), 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.

[Sub-s. (7) substituted by s. 3 (b) of Act 28 of 1990 .]

(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 subsection (3) or (7);
- (c) wilfully makes any false statement in a removal certificate or a document furnished in terms of subsection (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.

(9) For the purposes of subsections (1), (2) and (8) (d) 'owner' shall include any person who obtained stock or produce by virtue of an agreement of sale in terms of which any such person does not become the owner of such stock or produce merely by virtue of the delivery to him of such stock or produce.

[Sub-s. (9) added by s. 5 (b) of Act 59 of 1983 .]

9 Arrest and search without warrant

(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.

10 Malicious arrest and search

(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.

11 Verdicts on a charge of theft of stock or produce

(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 subsection (1), notwithstanding the fact that the prosecution has failed to prove that such stock or produce actually did belong to such particular person.

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

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.

13

[S. 13 amended by s. 6 of Act 59 of 1983 , by s. 1 of Act 32 of 1986 , by s. 4 of Act 28 of 1990 and by s. 2 of Act 33 of 1997 and repealed by s. 3 of Act 62 of 2000 .]

14 Jurisdiction of magistrates' courts in respect of sentence

Notwithstanding anything to the contrary in any law, any magistrates' court may, in respect of an offence under this Act-

- (a) where the court is not a court of a regional division, impose a fine or imprisonment for a period not exceeding three years; or
- (b) where the court is a court of a regional division, impose a fine or imprisonment for a period not exceeding fifteen years.

[S. 14 substituted by s. 7 of Act 59 of 1983 and by s. 2 of Act 32 of 1986 , amended by s. 5 of Act 28 of 1990 and substituted by s. 4 of Act 62 of 2000 .]

15 Compensation for damage to or loss of stock or produce

Whenever any court convicts any person of an offence referred to in section 11 (1) (a), (b), (c) or (d) which has caused damage to or loss of stock or produce-

- (a) the court shall direct the attention of the owner thereof, if present in court, to the provisions of section 300 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) the court, in the case of a magistrate's court, may, notwithstanding the provisions of paragraph (a) of the proviso to subsection (1) of the said section 300, make in accordance with the provisions of the said section 300 an award not exceeding R20 000.

[S. 15 amended by s. 39 of Act 80 of 1964 , substituted by s. 13 (1) of Act 102 of 1972 and by s. 8 of Act 59 of 1983 and amended by s. 6 of Act 28 of 1990 .]

16 Regulations

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*.

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

(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.

18 Application of sections 5, 6, 7 and 8

(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.

19

[S. 19 repealed by s. 24 of Act 108 of 1991 .]

20 Repeal or amendment of laws

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

21 Short title and date of commencement

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 AMENDMENT
Cape of Good Hope	Act 14 of 1870	The Cattle Removal Act, 1870	The repeal of the whole
Cape of Good Hope	Act 12 of 1885	Cattle and Stock Definitions Amendment Act, 1885	The repeal of the whole
Cape of Good Hope	Act 20 of 1889	The Cattle Removal Amendment Act, 1889	The repeal of the whole
Cape of Good Hope	Act 12 of 1891	The Cattle Removal Amendment Act, 1891	The repeal of the whole
Cape of Good Hope	Act 7 of 1896	The Cattle Removal Acts Extension Act, 1896	The repeal of the whole
Natal	Act 1 of 1899	Cattle Stealing Act, 1898	The repeal of sections <i>six</i> to <i>thirty-five</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 41 of 1905	To amend the Cattle Stealing Act, 1898	The repeal of section <i>five</i>
Orange Free State	Chapter CXXXIV of Law Book	To provide against Theft of Hides, Mohair, Wool and Ostrich Feathers	The repeal of the whole
Orange Free State	Law 4 of 1895	Law Supplementing and Amending Part 2 of Chapter CXXXIII of the Law Book	The repeal of sections <i>three</i> to <i>seven</i> , inclusive

Transvaal	Ordinance 6 of 1904	Stock Theft Ordinance, 1904	The repeal of sections <i>twenty-eight, twenty-nine</i> and <i>thirty</i>
Union	Act 26 of 1923	Stock Theft Act, 1923	The repeal of the whole
Union	Act 16 of 1942	Stock Theft Amendment Act, 1942	The repeal of the whole
Union	Act 68 of 1957	General Law Amendment Act, 1957	The repeal of section <i>twenty-eight</i>

STOCK THEFT AMENDMENT ACT 32 OF 1986

[ASSENTED TO 25 MARCH 1986]

[DATE OF COMMENCEMENT: 4 APRIL 1986]

(English text signed by the State President)

ACT

To amend the Stock Theft Act, 1959, so as to increase the maximum amounts of fines which may be imposed under the Act.

1

Amends section 13 (*a*) of the Stock Theft Act 57 of 1959 by substituting subparagraph (*v*).

2

Substitutes section 14 of the Stock Theft Act 57 of 1959 .

3 Short title

This Act shall be called the Stock Theft Amendment Act, 1986.

STOCK THEFT AMENDMENT ACT 28 OF 1990

[ASSENTED TO 23 MARCH 1990]

[DATE OF COMMENCEMENT: 4 APRIL 1990]

(English text signed by the State President)

ACT

To amend the Stock Theft Act, 1959, so as to make further provision for the furnishing of particulars on the document of identification; to extend the period for which certain documents shall be retained; to make further provision for the furnishing of particulars on the removal certificate; to increase certain fines; and to increase the amount of compensation for damage to or loss of stock or produce; and to provide for matters connected therewith.

1

Amends section 6 of the Stock Theft Act 57 of 1959 , as follows: paragraph *(a)* adds subparagraphs (iii) and (iv) to subsection (1) *(a)*; and paragraph *(b)* substitutes subsections (3) and (4).

2

Amends section 7 of the Stock Theft Act 57 of 1959 by substituting subsections (2) and (3).

3

Amends section 8 of the Stock Theft Act 57 of 1959 , as follows: paragraph *(a)* substitutes subsection (1) *(e)*, *(f)* and *(g)* for subsection (1) *(e)* and *(f)*; and paragraph *(b)* substitutes subsections (6) and (7).

4

Amends section 13 *(a)* (v) of the Stock Theft Act 57 of 1959 by substituting the expression 'R8 000' for the expression 'R4 000'.

5

Amends section 14 of the Stock Theft Act 57 of 1959 by substituting the expression 'R4 000' for the expression 'R2 000'.

6

Amends section 15 *(b)* of the Stock Theft Act 57 of 1959 by substituting the expression 'R20 000' for the expression 'R10 000'.

7 Short title

This Act shall be called the Stock Theft Amendment Act, 1990.