

THE STOCK THEFT PROCLAMATION (CHAPTER 24)

as amended by

THE STOCK THEFT (AMENDMENT) LAW, 1965

(No. 33 of 1965)

Promulgated 31st December, 1965

and

THE STOCK THEFT (AMENDMENT) LAW, 1966

(No. 7 of 1966)

Promulgated 11th June, 1966

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THE STOCK THEFT PROCLAMATION

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27 of 1935
69 of 1936
Cap. 20
11 of 1954
33 of 1965

CHAPTER 24

STOCK THEFT

7 of 1966 *To make provision for the prevention of thefts of stock and produce.*

(17th May, 1935)

Short Title.

1. This Proclamation may be cited as the Stock Theft Proclamation.

Interpretation.

2. In this Proclamation :

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

“public sale” means a sale effected —

- (a) on any public market, or
- (b) by any shopkeeper during the hours when his shop may by any law in force remain open for the transaction of business, or
- (c) by duly licensed auctioneer at a public auction, or
- (d) in pursuance of an order of a competent Court.

“stock” means any horse, mare, gelding, ass, mule, bull, cow, ox, ram, ewe, wether, goat, pig or ostrich, or the young thereof ;

“sufficient fence” when applied to wire fences means a fence of not fewer than four wires and not less than three feet six inches high; in other cases any fence, wall or hedge through which no stock could pass without breaking, or any natural boundary through or across which no sheep would ordinarily pass.

Possession of Stolen Stock.

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

Duty to Ascertain Bona Fides of Seller of Stock.

4. A 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 first-mentioned person, for believing at the time of such acquisition or receipt that such stock or produce was the property of the person from whom he received it or that such person was duly authorised by the owner thereof to deal with it or dispose of it, shall be deemed to be guilty of an offence.

Trepass with Intent to Steal.

5. (1) A person who in any manner enters any land enclosed on all sides with a sufficient fence, or any kraal with intent to steal any stock or produce on such land or in such kraal shall be guilty of an offence.

(2) Where a person is found on any such land or in any such kraal, then, unless —

- (a) he satisfies the Court that he had reasonable and lawful excuse for his presence there, or
- (b) he was proceeding along a road or thoroughfare traversing such land or part of such land,

the onus shall be on him to prove that he did not enter such land or kraal with intention to steal the stock or produce therein.

Alternative Verdict on Charge of Stock Theft.

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

- (a)¹
- (b)¹
- (c)¹
- (d)¹
- (e) contravening section 3 or 4 of this Proclamation

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

(1) deleted by Law 33/1965.

Night Delivery of Stock Forbidden.

7. 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.

Arrest on Suspicion.

8. (1) In addition to any powers of arrest conferred by any other law, any person may, without warrant, arrest any other person upon reasonable suspicion that such other person has committed the offence mentioned in section 3 or 5 of this Proclamation.

(2) Whenever any Justice of the Peace, member of a Police Force, 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 stolen stock or produce, such Justice of the Peace, member of a Police Force, 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 which he reasonably suspects to have been stolen he may without warrant arrest such person and shall as soon as possible convey him and the stock or produce so found to a police station or charge office.

Wrongful Arrest.

9. (1) A person who under colour of this Proclamation wrongfully and maliciously or without probable cause arrests any other person or effects any search shall be deemed to be guilty of an offence.

(2) In 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.

Penalties.¹

10. Any person convicted of any of the offences specified in section 6 (1) (e) shall be liable to a fine not exceeding R400, to imprisonment not exceeding two years or to both such fine and imprisonment.

¹ Replaced by Law 33 1965.

By direction of the Attorney-General in terms of section 3 of the Amendments Incorporation Law,
1967 - See G.N. 134 of 1967

Further Penalties

11. Any person convicted of an offence under sections 5(1), 7 or 9(1) shall be liable to a fine not exceeding R200, to imprisonment not exceeding two years or to both such fine and imprisonment.²

Compensation¹

12. (1) In all cases of a conviction for¹ either of the offences mentioned in section 6(1) (e) 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 law relating to African Courts for compensation.

the Court shall in addition to any sentence which it may impose, impose on the person so convicted compensation² not exceeding the full market value of such stock or produce at the time when the theft was committed if the said stock or produce has not been recovered, or, if the said stock or produce or portion thereof has been recovered, compensation² not exceeding the difference between the market value of the said stock or produce when the theft was committed and its value when recovered, and in default of payment at the expiration of the sentence, imprisonment for a further period not exceeding twelve months.

(2) Such compensation² may be recovered in the manner provided by section 314 of Chapter 18, 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 be reversed on appeal or review.

(3) The provisions of this section shall not apply to the case of any person sentenced to detention in a juvenile reformatory or juvenile adult reformatory or to whipping without imprisonment unless it be proved that such person has the means of satisfying any compensation² imposed thereunder.

Indictment

13. The provisions of this Proclamation 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 Proclamation be not referred to in such indictment, summons or charge.

(1) amended by Law 33/1965 and 7/1966

(2) amended by Law 33/1965..