

STOCK THEFT (AMENDMENT) ACT, 2019

No. 7



of 2019

ARRANGEMENT OF SECTIONS

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An Act to amend the Stock Theft Act.

Date of Assent: 02.05.19

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Stock Theft (Amendment) Act, 2019, and shall come into operation on such date as the Minister may, by Order, published in the *Gazette*, appoint.

Short title and commencement

2. Section 2 of the Act is amended by substituting for the definition of "police officer", the following new definition —
"police officer" has the meaning assigned to it under the Police Act;"

Amendment of section 2 of the Act
Cap. 21:01

3. The Act is amended by substituting for section 3, the following new section —

Amendment of section 3 of the Act

"Stealing of Stock

3 (1) Any person who steals any stock or produce, shall be guilty of an offence and, notwithstanding the provisions of any other written law, shall be sentenced for a first offence to a term of imprisonment for not less than five years or more than 12 years without the option of a fine, and for a second or subsequent offence to a term of imprisonment for not less than seven years or more than 15 years without the option of a fine.

(2) Where, for the purpose of stealing any stock or produce, or in the course of stealing any stock or produce, violence or the threat of violence is used, the penalty shall be a term of imprisonment for not less than 10 years or more than 20 years without the option of a fine, and if the violence used or threatened involves the use of a firearm or other offensive weapon the penalty shall be a term of imprisonment for not less than 12 years or more than 25 years without the option of a fine.

(3) A person charged under subsection (1) may be convicted of the offence of stealing any stock or produce or of receiving any stock or produce notwithstanding that the person stated in the charge to be the owner of the stock or produce is wrongly named as the owner of the stock or produce.

(4) Any person who procures, incites, hires, directs, instigates, or colludes with, another person to contravene the provisions of subsection (1) shall be guilty of an offence and shall suffer the same penalties as the person who contravenes those provisions.

(5) Where a person convicted of an offence under this section is a holder of a fresh produce licence under the Trade Act, the court convicting the person may order the cancellation of the licence, and accordingly the provisions of section 20 of the Trade Act shall have effect.”

Cap. 43:02

Insertion of section 3A in the Act

4. The Act is amended by inserting immediately after section 3, the following new section --

“Possession of stolen stock or produce

3A. (1) Any person in possession of stock or produce knowing or having reason to believe to be stolen stock or produce, shall be guilty of an offence and notwithstanding the provisions of any other written law, shall be sentenced for a first offence to a term of imprisonment for not less than five years or more than 12 years without the option of a fine, and for a second or subsequent offence to a term of imprisonment for not less than seven years or more than 15 years without the option of a fine.

(2) Any person charged under subsection (1) may be convicted of the offence of possession of stolen stock or produce notwithstanding that the person stated in the charge to be the owner of the stock or produce is wrongly named as the owner of the stock or produce.

(3) Any person who procures, incites, hires, directs, instigates, or colludes with, another person to contravene the provisions of subsection (1) shall be guilty of an offence and shall be liable to the same penalties as a person who contravenes provisions of subsection (1).

(4) Where a person convicted of an offence under this section is a holder of a fresh produce licence under the Trade Act, the court convicting the person may order the cancellation of the licence, and accordingly the provisions of section 20 of the Trade Act shall have effect.”

5. Section 4 of the Act is amended by inserting immediately after the words “section 3” appearing therein, the words “and 3A”.

Amendment of section 4 of the Act

6. Section 7 of the Act is amended by substituting for the word “three” appearing therein, the word “five”.

Amendment of section 7 of the Act

7. Section 8 of the Act is amended —

Amendment of section 8 of the Act

(a) by inserting immediately after paragraph (2), the following new paragraph —

“(2A) A police officer who is making an arrest of a person charged with an offence specified in this Act may, at the time of the arrest, seize any vehicle, offensive weapon or other equipment —

(a) in the possession or custody of the arrested person at the time of the arrest; and

(b) used in the conveyance of or containing any article or substance in connection with which the said offence is alleged to be or have been committed.”; and

(b) in subsection (3), by substituting for the words “(1) and (2)” appearing therein, the words “(1), (2) and (2A)”.

8. The Act is amended by inserting immediately after section 13, the following new section —

Insertion of section 13A in the Act

^{“Compensation order without application} 13A. (1) Notwithstanding section 13, where, on a conviction for an offence under this Act, it is proved that any person has suffered loss or damage as a result of such offence, the court may order the accused person to pay compensation for such loss or damage to the person who has suffered it, and where more than one person is convicted jointly for the offence, any such order of compensation may be made against any one of the accused persons, or against them all, or against any number of them, jointly and severally.

(2) Any order of compensation made under this section shall be in addition to and irrespective of any other sentence imposed on the accused, and may include the actual loss suffered as well as loss arising as a result of or attributable to the offence.”.

9. Section 16 of the Act is amended by substituting for that section the following new section —

Amendment of section 16 of the Act

^{“Penalties} 16. A person who is guilty of an offence for which no specific penalty is provided under this Act shall be liable to —

(a) community service for a period not exceeding six months;

(b) corporal punishment not exceeding six strokes;

(c) imprisonment for a term not exceeding five years;

(d) a fine not exceeding P5 000; or

(e) a combination of (a) and (b), or (c) and (d).”.

PASSED by the National Assembly this 10th day of April, 2019.

BARBARA N. DITHAPO,
Clerk of the National Assembly.