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Stock Theft Act, 1982

Act 5 of 1982

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1982/5/eng@1998-12-01

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PDF created on 21 February 2024 at 15:21.

Collection last checked for updates: 1 December 1998.

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Stock Theft Act, 1982

Act 5 of 1982

Commenced on 2 July 1982

[This is the version of this document at 1 December 1998.]

An Act to repeal and replace the Stock Theft Act 1904.

1. Short title

This Act may be cited as the Stock Theft Act, 1982 and shall come into operation on such date as the Minister may, by Notice in the *Gazette*, appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Meat Inspector**” shall have the meaning assigned to it in the Control of Slaughter Houses Act 1964;

“**Health Inspector**” shall have the meaning assigned to it in the Public Health Act 1969;

“**Minister**” means the Minister for Justice;

“**produce**” means the whole or 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 any order of a competent Court;

“**sell**” includes the alienation of stock or produce in any manner whatsoever and “sale” has the corresponding meaning;

“**stock**” means any horse, mule, ass, cattle, sheep, goat, pig, domesticated ostrich, domesticated game or the carcass or portion of the carcass of any such stock.

[Amended A.11/1987]

3. Theft and unlawful possession of stock or produce

Any person who—

- (a) steals stock or produce; or
- (b) is found in possession of stock or produce which is reasonably suspected to have been stolen and he fails to give a satisfactory explanation,

shall be guilty of an offence.

4. Failure to disclose from whom stock or produce has been obtained

Any person who is found in possession of stock or produce in regard to which there is a reasonable suspicion that it has been stolen and is, on a request by a police officer, unable to disclose to such police officer the source from which such stock or produce has been obtained, shall be guilty of an offence.

5. Acquiring stock or produce without reasonable belief as to ownership

- (1) Any person who in any manner other than at a public sale, acquires or receives into his possession from any other person stolen stock or 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 acquires or receives it or that such other person has been duly authorised by its owner to sell it or dispose of it, shall be guilty of an offence.
- (2) In any proceedings for a contravention of subsection (1) the onus shall be on the accused to prove that at the time when he acquired or received into his possession such stock or produce he had reasonable cause for believing that it was the property of the person from whom he so acquired or received it or that such person had been duly authorized by its owner to sell or dispose of it.

6. Entering with intent to steal

- (1) Any person who enters on any land or in any building or structure with intent to steal any stock or produce from such land, building or structure shall be guilty of an offence.
- (2) Unless a person charged under subsection (1) was found proceeding along a road or thoroughfare traversing such land, the onus shall be upon him to prove that he had no intention to steal such stock or produce.

7. Delivery of stock or produce between sunset and sunrise

Any person who for the purpose of trade makes or takes delivery between sunset and sunrise of any stock or produce sold or acquired by him in any manner other than at a public sale, shall be guilty of an offence.

8. Document of sale to be furnished

- (1) This section shall not apply to the sale of meat by a licensed butcher which is not intended for resale.

[Amended A.11/1987]

- (2) Any person (including any auctioneer, agent or market master) who sells any stock or produce shall, at the time of sale or delivery to the buyer of such stock or produce, furnish the buyer with a document in the prescribed form witnessing such sale.

[Amended A.11/1987]

- (3) No person to whom any stock or produce has been sold shall take delivery thereof without a document of sale referred to in subsection (2).

[Amended A.11/1987]

- (4) Any person to whom a document of sale has been furnished in terms of subsection (2) shall retain it in his possession for not less than three months.

- (5) Any Police Officer, Justice of the Peace, Regional Administrator, Regional Secretary, Veterinary Officer, Stock Inspector, Veterinary Assistant, a Chief or Indvuna of the area may, within the said three months, demand an inspection of such document and, upon such demand, the person having possession thereof shall produce it for inspection by the person making the demand.

- (6) A person shall be guilty of an offence if he—
- (a) sells any stock or produce and, at the time of delivery of such stock or produce, fails to furnish the buyer with a document witnessing such sale;
 - (b) buys any stock or produce without a document witnessing such sale;
 - (c) fails to retain a document of sale for not less than three months;
 - (d) fails to comply with a demand made under subsection (5); or
 - (e) wilfully makes any false statement in relation to a document of sale.

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

- (1) Any person shall be guilty of an offence if he receives or acquires possession of stock or produce in any manner, otherwise than at a public sale, from any other person whose place of residence is unknown to him at the time of delivery thereof without the delivery to the first mentioned person of the document referred to in subsection (2) hereof.
- (2) The document referred to in subsection (1) shall contain the following information:
- (a) the date on which such stock or produce was received or acquired, not being earlier than seven days before the stock or produce came into the possession of the person first mentioned in subsection (1);
 - (b) the signature of a Police Officer of or above the rank of Sub-Inspector, a Veterinary Officer, a Veterinary Assistant, a Chief or Indvuna of the area in which the sale takes place;
 - (c) a full description of the stock or produce.
- (3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to an auctioneer, agent or market master who receives or acquires any stock or produce for the purpose of sale.
- (4) Any person who has obtained delivery of a document referred to in subsection (1) shall retain it in his possession for a period of not less than three months.
- (5) Any Police Officer, Stock inspector, Veterinary Officer, Veterinary Assistant, Chief or Indvuna may within such period of three months demand an inspection of such certificate and, upon such demand, the person having possession of it shall produce it for inspection by the person making the demand.
- (6) A person shall be guilty of any offence if he—
- (a) at the time of the sale or purchase of stock or produce under the circumstances referred to in subsection (1), fails to furnish the buyer with the requisite document or, as the case may be, buys such stock or produce in respect of which no such document exists;
 - (b) fails to comply with a demand made under subsection (5); or
 - (c) wilfully makes a false statement in relation to a document referred to in subsection (1).

10. Person other than a licensed butcher or licensed meat canner slaughtering stock without permit

- (1) No person other than a licensed butcher or a licensed meat canner shall slaughter any stock unless he is in possession of a permit issued by an officer authorised by the Minister for Agriculture:
- Provided that an owner of stock may, subject to the Animal Diseases Act, [No. 7 of 1965](#) and any Regulations made thereunder, slaughter his stock for purposes other than sale without a permit.
- (2) In any proceedings under subsection (1) the onus shall be upon the accused to prove that he slaughtered the stock in question for purposes other than sale.

- (3) A permit issued under subsection (1) shall be in the form prescribed and shall be valid for not more than seven days from the date of issue thereof.
- (4) A person who slaughters stock by virtue of a permit issued under subsection (1) shall retain such permit for not less than three months and may, during such period, be called upon by a police officer to produce such permit.
- (5) Subject to subsection (1) any person shall be guilty of an offence if he—
 - (a) slaughters stock without a permit issued under subsection (1);
 - (b) fails to produce such permit on demand under subsection (4); or
 - (c) wilfully makes a false statement in relation to such permit.

11. Power to search and arrest without a warrant

- (1) Any person may, without a warrant, arrest any other person upon reasonable suspicion that such other person has committed an offence contrary to sections 3, 4 or 6.
- (2) If any Justice of the Peace, Police Officer, 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 under this order has been committed, such Justice of the Peace, Police Officer, owner, lessee or occupier, as the case may be, may, without a warrant, search such receptacle, covering or vehicle 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 a warrant, arrest such person and seize such receptacle, covering or vehicle.
- (3) Any person who arrests another person under subsection (2) shall, as soon as possible, convey such person and the stock or produce so found and the receptacle, covering or vehicle so seized to the nearest Police Station.

12. Malicious arrest and search

- (1) Any person who, purporting to act under this Act, wrongfully and maliciously or without probable cause, arrests any other person or causes him to be searched or arrested shall be guilty of an offence.
- (2) In any proceedings under this section the onus of proof that the arrest or search which is the subject of the charge was not wrongful and malicious arrest or without probable cause shall be upon the accused.

13. Alternative verdicts

- (1) Where a person is charged with the theft of stock or produce under this Act the Court may, in accordance with the evidence, convict him of any of the following offences notwithstanding that he was not originally charged with such offence:
 - (a) attempting to commit the theft of such stock or produce; or
 - (b) receiving such stock or produce knowing it 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;
 - (d) knowingly selling, disposing of or knowingly assisting in the sale, or disposal of, stock or produce which has been stolen or which has been received with knowledge of it having been stolen;

- (e) being in possession of stock or produce reasonably suggested to have been stolen; or
 - (f) any offence contrary to sections 4 or 5.
- (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 set out 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.

14. Keeping of records of stock purchased or slaughtered by butchers or on their behalf

- (1) Any person who owns or manages a butchery shall, for not less than two years and in the manner prescribed by regulations, keep a record of every stock purchased or slaughtered or produce purchased by him or on his behalf containing such information as may be required by regulations to be recorded therein.
- (2) Any Police Officer, “Meat Inspector” or “Health Inspector”, may demand for inspection the production of a record kept under subsection (1) and, upon such demand, the person having possession thereof shall produce it for inspection by such Police Officer.
- (3) Any person shall be guilty of an offence if he—
- (a) fails to keep a record as required by subsection (1) or to comply with any demand under subsection (2); or
 - (b) wilfully makes a false statement in relation to a record kept under subsection (1).

15. Preservation of hides and skins

- (1) Any person who slaughters, or causes to be slaughtered, any stock shall retain or cause to be retained in his possession the hide or skin of such stock with brands and any other identification mark thereon, if any, without any alteration, disfiguration or effacement thereof for a period of not less than 30 days:
- Provided that after a Police Officer of or above the rank of sub-inspector has inspected a hide or skin and has recorded the full description thereof, such person may sell or otherwise dispose of such hide or skin before the expiry of the period of 30 days.
- (2) Any Police Officer, Justice of the Peace, Regional Administrator, Regional Secretary, Chief or Runner of the area, may within the period mentioned in subsection (1) demand an inspection of such hide or skin and, upon such demand, the person having possession thereof shall produce it for inspection by the person making the demand.
- (3) A person shall be guilty of an offence if he—
- (a) fails to retain or to cause to be retained in his possession the hide or skin of stock to which subsection (1) applies;
 - (b) having retained the hide or skin, fails to comply with any of the conditions referred to in subsection (1); or
 - (c) fails to comply with a demand made under subsection (2).

16. Alteration, disfiguration or effacement of brands or other marks of identification, on stock or produce

Any person shall be guilty of an offence if, without lawful excuse, he alters, disfigures or effaces a brand or other mark of identification on any stock or produce.

17. Keeping of records of stock or produce acquired or received otherwise than at a public sale or by auctioneer etc., for sale

- (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, any stock or produce shall, in the manner prescribed by regulation, keep a record of every such stock or produce containing such information as may be required by regulation to be recorded therein.
- (2) Any Police Officer may demand an inspection of such record, and upon such demand, the person having possession thereof shall produce it for inspection by such Police Officer.
- (3) Any person shall be guilty of an offence if he—
 - (a) fails to keep a record as required by subsection (1) or to comply with any demand made under subsection (2); or
 - (b) wilfully makes a false statement in relation to the record to be kept under subsection (1).

18. Penalties for offences

- (1) A person convicted of an offence under section 3 or 4 in relation to any cattle, sheep, goat, pig or domesticated ostrich shall be liable to imprisonment for a period of not less than—
 - (a) two years without the option of a fine in respect of a first offence; or
 - (b) five years without the option of a fine in respect of a second or subsequent offence,

but in either case no such period of imprisonment shall exceed ten years:

Provided that if the court convicting such person is satisfied that there are extenuating circumstances in connection with the commission of such offence, he shall be liable to a fine not exceeding E2000 or a term of imprisonment not exceeding ten years or both.

[Amended A.11/1987]

- (2) Any person who is convicted of an offence under this Act, other than under the provisions referred to in subsection (1) shall be liable to a fine of E200 or to imprisonment for a period of twelve months or both.

19. Jurisdiction of Magistrate's Court in respect of penalties

Notwithstanding anything in any other law, a Magistrate's Court of the First Class shall have jurisdiction to impose upon a person convicted of an offence in respect of which the penalty is prescribed in section 18(1) any penalty in accordance with that section and to order the payment of any compensation under section 20.

20. Compensation in addition to sentence in certain cases

- (1) In all cases of a conviction for an offence mentioned in sections, 3, 4 or 13(1)(b), (d) or (e) in which—
 - (a) the Court is satisfied that the stock or produce which forms the subject 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 commission of the offence; and
 - (c) the owner of such stock or produce does not apply under the provisions of the Criminal Procedure and Evidence Act, No. 67 of 1938 for compensation,

the Court may, in addition to any penalty which it may impose on the person convicted—

- (i) order such person to pay compensation not exceeding the market value of such stock or produce at the time of the commission of the offence, if it has not been recovered; or
 - (ii) if the stock or produce has been recovered and is worth less than its market value at the time of the commission of the offence, order such person to pay compensation not exceeding the difference between such market value and its market value at the time when it was recovered.
- (2) Any compensation ordered to be paid under subsection (1) shall be governed by the provisions of Part XVIII of the Criminal Procedure and Evidence Act, [No. 67 of 1938](#), relating to costs, compensation and restitution.

20bis Suspension or revocation of licence in certain circumstances

- (1) Where in any criminal proceedings for an offence under section [3](#), [4](#), [5](#), [6](#) or [7](#)—
- (a) the court is satisfied that any person, other than an accused person, who holds a licence entitling him to buy, sell or otherwise acquire or dispose of livestock or produce has been unlawfully associated with an offence with which another person has been charged or has received the proceeds thereof; or
 - (b) a person holding such licence as is referred to in paragraph (a) is convicted of such offence;
- the court may suspend or revoke his licence after giving him an opportunity to show cause why such licence should not be suspended or revoked.
- (2) Any person whose licence has been revoked under subsection (1) shall not be eligible for the grant of such a licence for a period of two years from the date of the revocation of the licence and any licence granted in contravention of this subsection shall be void.
- (3) For the purpose of paragraph (a) of subsection (1), a person shall be deemed to be unlawfully associated with an offence referred to in that subsection if the court is satisfied that he did any of the acts set out in paragraphs (a) to (f) of [section 13\(1\)](#) or counselled, persuaded, recommended, directed, or assisted in the commission of such offence.

[Added A.11/1987]

21. Exemption from sections 7, 8 and 9

The Minister may, by notice in the *Gazette* and subject to such conditions as he may determine, exempt from the application of or compliance with sections [7](#), [8](#) and [9](#)—

- (a) any person or class of persons;
- (b) any area specified in such notice; or
- (c) any stock or produce or class of stock or produce.

22. Regulations

The Minister may make regulations for the better carrying out of the provisions of this Act, including regulations prescribing the form of any certificate or document required for the purposes of this Act.

23. Repeal of the Stock Theft Act, 1904

The Stock Theft Act, 1904 is hereby repealed.