

CHAPTER 265

THE STOCK THEFT (PREVENTION) ACT

[PRINCIPAL LEGISLATION]

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SCHEDULE

CHAPTER 265

THE STOCK THEFT (PREVENTION) ACT

An Act to more effectually prevent the theft of stock.

[13th May, 1960]

Ords Nos.

2 of 1960

30 of 1961

[R.L. Cap. 422]

Acts Nos.

2 of 1972

13 of 1984

12 of 1998

[PCh265s1]1. Short title and application Acts Nos. 13 of 1984 3rd Sch

(1) This Act may be cited as the Stock Theft (Prevention) Act.

(2) This Act shall apply throughout the whole area of Mainland Tanzania.

[PCh265s2]2. Interpretation Ord. No. 30 of 1961 s. 2; Acts Nos. 13 of 1984 3rd Sch; 12 of 1984 s. 24

(1) In this Act unless the context otherwise requires—

"authorised officer" means any administrative officer, any police officer not below the rank of sub-inspector and any other person declared by the Minister for Home Affairs by notice in the Gazette to be an authorised officer for the purposes of this Act;

"community" means the people of any area or place or of any tribe or sub-division of a tribe, and includes a family or group of families;

"fence" includes any hedge, wall or other erection for enclosing stock;

"leader" includes an elder, a headman or chief;

"occupier" includes a native or native community lawful occupying or using public land as a cattle boma in accordance with native law and custom;

"owner" includes the occupier and person in charge of or having supervision of any property;

"private land" means freehold or leasehold land, or land deemed under the provisions of any law for the time being in force to be freehold or leasehold land, and land occupied under a right of occupancy granted under section 6 of the Land Act *;

"public land" means land other than private land;

"specified area" means any area specified in any information, order, direction or document and as opposed to the whole area of the United Republic of Tanzania;

"stock" means any of the animals mentioned in section 268 of the Penal Code * and any of their young;

"stock enclosure" means any area of private land enclosed or surrounded or substantially enclosed or surrounded by a fence and in or upon which stock is present or is habitually kept;

"theft" includes every offence punishable under Division V of the Penal Code *.

(2) The expression "in possession of" has the meaning ascribed to the expression "be in possession of" in section 5 of the Penal Code.

(3) [Repealed by Act No. 13 of 1984, Third Sch.]

[PCh265s3]3. Possession of stock suspected of having been stolen

(1) If any person is found in a specified area to be in possession of any stock in circumstances which may reasonably lead to the belief that such stock has been stolen, such person shall, unless he gives an account which satisfied the court that the possession was lawful, be deemed to have stolen the same and shall be liable to any of the penalties prescribed for theft of stock.

(2) In subsection (1) "stock" includes the meat, hide, skin, or any part of any animal within the definition of "stock" in section 2 of this Act.

[PCh265s4]4. Trespass with intent to steal stock Act. No. 2 of 1972 s. 11

(1) Any person who in a specified area—

(a) unlawfully enters into or upon land owned by another or into or upon any cattle boma occupied in accordance with the native law or custom with intent to steal any stock in or upon such land or cattle boma; or

(b) having lawfully entered into or upon that land or cattle boma unlawfully remains there with intent to steal any stock in or upon that land or cattle boma, commits an offence and upon conviction is liable to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand shillings or to both the imprisonment and fine.

(2) Where any person has in a specified area unlawfully entered, or, having lawfully entered has unlawfully remained, in or upon any stock enclosure or cattle boma owned by another occupied in accordance with customary law, then, in any proceedings under subsection (1) of this section the burden of proof that person did not enter or remain, as the case may be, in or upon the stock enclosure or cattle boma with intent to steal any stock shall be upon that person.

[PCh265s5]5. Being found near stock in suspicious circumstances Act No. 2 of 1972 s. 12

Any person found in a specified area near any stock in circumstances which may reasonably lead to the belief that person is there for the purpose of stealing any of the stock or of doing or omitting to do any act for the purpose of enabling or aiding another person to steal any of the stock shall, unless he gives an account which satisfies the court that he was there for some lawful purpose, commits an offence and upon conviction is liable to imprisonment for a term not exceeding two years or to a fine not exceeding four thousand shillings or to both the imprisonment and fine.

[PCh265s6]6. Fences around stock enclosure or cattle boma Act No. 2 of 1972 s. 13

Any person who, in a specified area, passes through, over or under, or tampers with, any fence enclosing partly stock enclosure or a cattle boma occupied in accordance with native law and custom without the consent of the owner, shall, unless he satisfies the court that he had a reasonable excuse for so doing, commits an offence and upon conviction is liable to imprisonment for a term not exceeding two years or to a fine not exceeding four thousand shillings or to both the imprisonment and fine.

[PCh265s7]7. Offences relating to brands Act No. 2 of 1972 s. 14

Any person who with intent to deceive—

(a) brands or marks with any distinctive mark any stock of which he is not the owner, or with intent to deceive, causes, directs or permits any stock of which he is not the owner to be branded or marked with his distinctive mark; or

(b) obliterates, defaces or otherwise renders illegible, or alters, any brand or distinctive mark upon any stock of which he is not the owner, or with intent to deceive, directs, causes or permits that brand or mark to be obliterated, defaced or otherwise rendered illegible, or altered,

commits an offence and upon conviction is liable to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand shillings or to both the imprisonment and fine.

[PCh265s8]8. Alternative verdicts

Any person charged with theft of stock may be found guilty of an offence under section 4, 5, 6 or 7 of this Act, although not charged with that offence.

[PCh265s9]9. Modification of Cap. 20

In its application to an accused person convicted of theft of stock, section 176 of the Criminal Procedure Act, shall be read and construed as if for the sum specified in the proviso to subsection (1) thereof there were substituted the sum of ten thousand shillings.

[PCh265s10]10. Rewards

A court may award to any person or persons giving information which had led to a conviction for an offence under this Act or for theft of stock under the Penal Code * any sum or sums not exceeding altogether one thousand shillings, provided that sum or sums shall not exceed one-half of any fine paid.

[PCh265s11]11. Arrest

(1) Without prejudice to any other law for the time being in force, where any person is seen or found committing or is reasonably suspected of having committed an offence under section 4, 5, 6 or 7 of this Act, the owner of the property in question may arrest such person without warrant if he has reason to believe that unless he is arrested he may not afterwards be found without undue delay, trouble or expense.

(2) A person apprehended under this section shall be taken before a magistrate, immediately without undue delay.

(3) A person making an arrest under subsection (1) of this section may hand over any person so arrested to a police officer or administrative officer, who shall take the arrested person before a magistrate immediately without undue delay.

(4) A person handing over an arrested person under the provisions of the last preceding subsection shall give the officer to whom the arrested person is handed over a full statement setting out the circumstances under which the arrest was made.

[PCh265s12]12. Inquiry by magistrate where theft of stock apprehended Ord. No. 30 of 1961 s. 3; Act No. 12 of 1998 Sch.

(1) When a magistrate is informed that any members of any community within a specified area are likely to act in a manner which may lead to bloodshed or to theft of stock he shall proceed to inquire into the truth of that information.

(2) An inquiry under subsection (1) shall, so far as may be practicable, be conducted in the manner prescribed in the Criminal Procedure Act * for conducting trials before a subordinate court.

(3) When conducting any inquiry under subsection (1) a magistrate shall sit with two members either from the village council or the district council and shall not be bound by the rules of evidence but may receive any evidence which appears to him to be relevant.

(4) The magistrate court which has jurisdiction over the area where the offence was committed shall try the offence under this Act: In this section, the term "magistrate" means a Resident Magistrate, a District Magistrate or a Primary Court Magistrate.

[PCh265s13]13. Order by magistrate Ord. No. 30 of 1961 s. 3

(1) If, after inquiry under section 12, the magistrate is satisfied that any members of any community within a specified area are likely to act in a manner which may lead to bloodshed or to theft of stock, he may by order in writing direct that if within any period, not exceeding one year, as may be specified in the order, the members of that community fail to keep the peace and be of good behaviour, then stock of a value not exceeding any amount which may be specified in the order shall be taken from that community and be confiscated.

(2) When any leader of a community in respect of which the magistrate has made an order under subsection (1) is present in court, the order shall be read over and explained to him; if the leader is not present in court the magistrate shall issue a summons requiring his attendance and shall on his appearance in court read over and explain the order to him.

(3) The provisions of the Criminal Procedure Act * relating to criminal summonses for accused persons and the power to arrest for disobedience of the summonses shall apply to summons issued under subsection (2).

[PCh265s14]14. Failure to comply with order Ord. No. 30 of 1961 s. 3

(1) If a magistrate is informed that any members of a community in respect of which an order has been made under subsection (1) of section 13 have, within the period specified in the order—

(a) acted in such a manner as to have caused or to have been likely to cause bloodshed; or

(b) stolen stock,

he shall inquire into that information in any manner which he may think fit, giving, if practicable, representatives of the community an opportunity of being heard, and if he is satisfied of the truth of the information he shall order that stock to the value of the amount specified in the order made under subsection (1) of section 13, or any part of the amount which he may think fit, shall be taken from the community or any member or member of that community and be confiscated.

(2) An order of a magistrate under this section shall be final.

(3) Where any stock is confiscated pursuant to an order of a magistrate under this section that stock shall become the property of the Government and thereupon any right or title to that stock in the community or any member or members of the community from which the stock was seized shall be extinguished.

[PCh265s15]15. Power to seize stock Ord. No. 30 of 1961 s. 3

(1) If any authorised officer is satisfied that—

(a) any stock has been stolen, whether within a specified area or not; and

(b) members of a community within a specified area—

(i) have taken part in the theft; or

(ii) are sheltering or otherwise in any manner aiding or assisting any

person who took part in the theft; or

(iii) are concealing any of the stock,

he may seize from that community or any member or members of that community and detain stock to the value of the stock stolen.

(2) Any seizure by an authorised officer under subsection (1) shall be reported immediately to the magistrate who shall hold an inquiry into the facts of the case in any manner which he shall think fit, giving, if practicable, representatives of the community from which the stock has been seized an opportunity of being heard.

(3) If, after inquiry under subsection (2), the magistrate is satisfied that the seizure of the stock was justified, he may order that all the stock, or any specified number of them, be given to the person from whom stock was stolen.

(4) Notwithstanding subsection (3), if by reason of the provisions of the Animal Diseases Act * an order cannot be carried into effect, the magistrate may order that all the stock, or any specified number thereof, be sold and the proceeds of the sale be given to the person from whom stock was stolen.

(5) If a magistrate makes an order under subsection (3) in respect of a specified number only of stock seized under the provisions of this section, he shall order that any remaining stock be returned to the community from which that stock was seized.

(6) If a magistrate holding an inquiry under subsection (2) is not satisfied that the seizure of stock was justified he—

(a) shall order that the stock be returned to the community from which it was seized; and

(b) may order that any compensation which he may think just be paid to the community in respect of the seizure.

(6) An order of a magistrate under this section shall be final.

[PCh265s16]16. Action under this Act not to affect proceedings in a court in certain circumstances Ord. No. 30 of 1961 s. 3

(1) Where any stock has been confiscated, seized, sold, or disposed of in any other manner in accordance with the provisions of sections 12, 13, 14 or 15 and the confiscation, seizure, sale or disposal has been the subject of an order of a magistrate following an inquiry under those provisions, no civil proceedings shall be commenced in any court by any person in respect of the confiscation, seizure, sale or disposal of that stock.

(2) Save as provided in subsection (1) no action taken under the provisions of sections 12, 13, 14 or 15 shall be deemed to be a bar to any civil or criminal proceedings in any court.

[PCh265s17]17. Indemnity to persons acting in good faith Ord. No. 30 of 1961 s. 3

No act done or omitted to be done by any person acting or purporting to act under the provisions of this Act shall if done in good faith in the execution of his duty, subject that person personally to any liability, action, claim or demand.

SCHEDULE

[Repealed by Act No. 13 of 1984, 3rd Sch.]