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VAN SUIDWES-AFRIKA



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DRAFT ORDINANCE

ONTWERPORDONNANSIE

The following Draft Ordinance is published for general information.

Die volgende Ontwerpordonnansie word vir algemene inligting gepubliseer.

H. P. F. GOUS,
Secretary for South West Africa.

H. P. F. GOUS,
Sekretaris van Suidwes-Afrika.

Administrator's Office,
Windhoek.

Kantoor van die Administrateur,
Windhoek.

DRAFT ORDINANCE

To consolidate and amend the laws relating to the theft of stock and produce and to provide for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President previously obtained and communicated to the Assembly by message from the Administrator, as follows:—

Definitions.

1. In this Ordinance, unless the context otherwise indicates —

- (a) "Executive Committee" means the Administrator-in-Executive Committee referred to in section 6 of the South West Africa Constitution Act, 1968 (Act 39 of 1968);
- (b) "produce" means the whole or any part of any skins, hides or horns of stock, and any wool or mohair;
- (c) "public sale" means a sale effected —
 - (i) at any public market; or
 - (ii) by any shopkeeper during the hours when his shop may in terms of any law remain open for the transaction of business; or
 - (iii) by a duly licensed auctioneer at a public auction; or
 - (iv) in pursuance of an order of a competent court;
- (d) "stock" means any horse, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, pig or poultry or the carcass or portion of the carcass of any such horse, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, pig or poultry;
- (e) "sufficient fence" means any wire fence, or any other fence, wall, hedge or barrier through which no stock could pass without breaking it, or any natural boundary through or across which no sheep would ordinarily pass.

ONTWERPORDONNANSIE

Tot samevatting en wysiging van die wetsbepalings met betrekking tot die diefstal van vee en produkte en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident vooraf verkry en by boodskap van die Administrateur aan die Vergadering meegedeel, VERORDEN SOOS VOLG:—

1. In hierdie Ordonnansie, tensy uit die samehang anders blyk, beteken — Woordomskrywing.

- (a) “openbare verkoping” ’n verkoping wat bewerkstellig is —
 - (i) by ’n openbare mark; of
 - (ii) deur ’n winkelier gedurende die ure wanneer sy winkel ingevolge enige wetsbepaling kan oopbly vir die doen van sake; of
 - (iii) deur ’n behoorlik gelisensieerde afslaer by ’n openbare veiling; of
 - (iv) uit hoofde van ’n bevel uitgereik deur ’n bevoegde hof;
- (b) “produkte” hele of enige gedeeltes van velle, huide of horings van vee, en enige wol of bokhaar;
- (c) “Uitvoerende Komitee” die Administrateur-in-Uitvoerende Komitee bedoel in artikel 6 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968);
- (d) “vee” enige perd, muil, esel, bul, koei, os, vers, kalf, skaap, bok, vark of pluimvee of die karkas of gedeelte van die karkas van sodanige perd, muil, esel, bul, koei, os, vers, kalf, skaap, bok, vark of pluimvee;
- (e) “voldoende omheining” enige draadheining of enige ander heining, muur, heg of ander versperring waardeur geen vee kan gaan sonder om dit te breek nie, of enige natuurlike grens waardeur of waaroor geen skaap gewoonlik sal gaan nie.

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

2. 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.

Acquisition or receipt of stock or produce in absence of reasonable cause for believing it to have been lawfully acquired.

3. (1) Any person who in any manner, otherwise than by way of a public sale, acquires or receives into his possession from another person stolen stock or stolen produce without the first-mentioned person having reasonable cause for believing, at the time of such acquisition or receipt, that the stock or produce is the property of such other person or that such other person has been duly authorised by the owner of the stock or produce to dispose of it or deal with it, shall be guilty of an offence.

(2) In any prosecution on account of a contravention of the provisions of subsection (1), the onus shall be upon the accused to prove that the reasonable cause contemplated by such subsection, did in fact exist.

Entering enclosed land, or a kraal, barn, stable or other walled place with intent to steal stock or produce.

4. (1) Any person who in any manner enters —

- (a) land enclosed on all sides with a sufficient fence; or
- (b) a kraal, barn, stable or other walled place

with intent to steal any stock or produce on such land or in such kraal, barn or other walled place, shall be guilty of an offence.

(2) In any prosecution on account of a contravention of the provisions of subsection (1), the onus shall be upon the accused to prove that the intention to steal the stock or produce contemplated by such subsection was never present: Provided that the provisions of this subsection shall not apply in the case where the accused was found while he was proceeding along a road or thoroughfare traversing such land.

Delivery or receipt of stock or produce between sunset and sunrise.

5. Any person who, between the hours of sunset and sunrise delivers or receives any stock or produce for the purposes of trade shall be guilty of an offence if such stock or produce was sold, purchased, disposed of or acquired by him in any manner other than by way of a public sale.

Document of identification or other suitable form of proof to be furnished by person alienating stock.

6. (1) Any person, (including an auctioneer, agent or market master) who sells, barter, gives or in any other manner disposes of stock to any other person shall, at the time of the delivery of the said stock to such other person furnish that person with a document (hereinafter referred to as a document of identification) —

(a) stating —

- (i) the full name and address of the person who thus sells, barter, gives or disposes of and, if he sells, barter, gives or disposes of the said

2. Iemand wat in besit van vee of produkte gevind word ten aansien waarvan daar redelike verdenking bestaan dat dit gesteel is en nie in staat is, om voldoende rekenskap van sodanige besit te gee nie, is skuldig aan 'n misdryf.

Versuim om voldoende rekenskap van besit van vee of produkte te gee.

3. (1) Enige persoon wat op enige wyse, behalwe by wyse van 'n openbare verkoping, gesteelde vee of gesteelde produkte van 'n ander persoon verkry of in sy besit ontvang sonder dat eersgenoemde persoon redelike gronde het om ten tyde van sodanige verkryging of ontvangs aan te neem dat die vee of produkte die eiendom is van sodanige ander persoon of dat sodanige ander persoon behoorlik gemagtig is deur die eienaar van die vee of produkte om daarvoor te beskik of dit van die hand te sit, is skuldig aan 'n misdryf.

Verkryging of ontvangs van vee of produkte by afwesigheid van redelike gronde om aan te neem dat dit wettiglik verkry is.

(2) By enige vervolging weens 'n oortreding van die bepalings van subartikel (1) rus die bewyslas op die beskuldigde om te bewys dat die redelike gronde by sodanige subartikel beoog, wel bestaan het.

4. (1) Iemand wat op enige wyse —

(a) grond wat aan alle kante met voldoende omheining toegemaak is, of

(b) 'n kraal, skuur, stal of ander ommuurde plek

Betreding van omheinde grond of van kraal, skuur, stal of ander ommuurde plek met doel om vee of produkte te steel.

betree met die doel om enige vee of produkte op sodanige grond of in sodanige kraal, skuur, stal of ander ommuurde plek te steel, is skuldig aan 'n misdryf.

(2) By enige vervolging weens 'n oortreding van die bepalings van subartikel (1) rus die bewyslas op die beskuldigde om te bewys dat die bedoeling om die vee of produkte by sodanige subartikel beoog, te steel, nooit aanwesig was nie: Met dien verstande dat die bepalings van hierdie subartikel nie van toepassing is nie in die geval waar die beskuldigde aangetref was terwyl hy onderweg was op 'n pad of in 'n deurgang wat oor sodanige grond gaan.

5. Iemand wat tussen die ure van sononder en sonop enige vee of produkte vir handelsdoeleindes aflewer of in ontvangs neem, is skuldig aan 'n misdryf indien sodanige vee of produkte deur hom verkoop, gekoop, van die hand gesit of verkry is anders as by wyse van 'n openbare verkoping.

Aflewering of ontvangs van vee of produkte tussen sononder en sonop.

6. (1) Enige persoon (met inbegrip van 'n afslaer, agent of markmeester) wat vee aan enige ander persoon verkoop, verruil, gee of op 'n ander wyse van die hand sit, moet ten tyde van die aflewering van bedoelde vee aan sodanige ander persoon 'n dokument (hieronder 'n dokument van identifikasie genoem) aan daardie ander persoon verstrek —

Dokument van identifikasie of ander geskikte vorm van bewys moet verstrek word deur persoon wat vee verveem.

(a) waarin vermeld word —

(i) die volle naam en adres van die persoon wat aldus verkoop, verruil, gee of van die hand sit, en indien hy bedoelde vee ten behoeve van

stock on behalf of some other person, also the full name and address of that person; and

(ii) such particulars in regard to the said stock as may be required in terms of any regulation made under section 16; and

(b) certifying that the said stock is the property of the person who thus sells, barter, gives or disposes, or that he has been duly authorised by the owner of such stock to so deal therewith or dispose thereof:

Provided that the provisions of this subsection shall not be construed so as to prohibit or prevent the said person to furnish such other person with a suitable form of proof, other than the document of identification contemplated by this subsection which conforms to the requirements of paragraphs (a) and (b).

(2) No person to whom any stock has been sold, bartered, given or otherwise disposed of and to whom a document of identification or another form of proof is required to be furnished in terms of subsection (1), shall receive or accept delivery of the stock concerned without obtaining such document or other form of proof at the time of delivery.

(3) Any person to whom a document of identification or other form of proof has been furnished in terms of subsection (1), shall retain such document or form of proof for a period of at least three months from the date of delivery, during which period —

(a) any policeman, justice of the peace, or an owner, lessee or occupier of land may demand from such person an inspection of the said document or form; and

(b) such person shall be obliged to comply with any demand which is directed to him in terms of the provisions of paragraph (a).

(4) Any person who —

(a) contravenes or fails to comply with any provision of this section;

(b) refuses or fails to comply with any demand in terms of the provisions of subsection (3)(a); or

(c) wilfully makes a false or misleading statement in or in connection with the document or other form of proof contemplated by subsection (1)

shall be guilty of an offence.

... iemand anders verkoop, verruil, gee of van die hand sit, ook die volle naam en adres van so iemand; en

(ii) sodanige besonderhede met betrekking tot bedoelde vee as wat ingevolge enige regulasie kragtens artikel 16 uitgevaardig, vereis word; en

(b) waarby gesertifiseer word dat bedoelde vee die eiendom is van die persoon wat aldus verkoop, ruil, gee of van die hand sit, of dat hy behoorlik gemagtig is deur die eienaar van sodanige vee om aldus daarmee te handel of daarvoor te beskik:

Met dien verstande dat die bepalings van hierdie subartikel nie so uitgelê word nie as sou dit die bedoelde persoon belet of verhinder om 'n geskikte vorm van bewys, buiten die dokument van identifikasie hierbo beoog, aan sodanige ander persoon te verstrek wat aan die vereistes van paragrawe (a) en (b) voldoen.

(2) Niemand aan wie enige vee verkoop, verruil, gegee of op 'n ander wyse van die hand gesit is en aan wie 'n dokument van identifikasie of 'n ander vorm van bewys ingevolge subartikel (1) verstrek moet word, mag die betrokke vee of produkte in ontvangs neem of aflewering daarvan aanvaar sonder om sodanige dokument of ander vorm van bewys ten tye van die aflewering te verkry nie.

(3) Iemand aan wie daar ingevolge die bepalings van subartikel (1) 'n dokument of ander vorm van bewys verstrek is, moet sodanige dokument of bewys vir 'n tydperk van minstens drie maande in sy besit hou, gedurende welke tydperk —

(a) enige polisiebeampte, vrederegter, of 'n eienaar, huurder of okkupeerder van grond van so iemand insae van bedoelde dokument of vorm van bewys kan eis; en

(b) so iemand verplig is om te voldoen aan enige eis wat ingevolge die bepalings van paragraaf (a) aan hom gerig word.

(4) Iemand wat —

(a) enige bepaling van hierdie artikel oortree of versuim om daaraan te voldoen;

(b) weier of versuim om aan 'n eis gerig ingevolge die bepalings van subartikel (3) (a) te voldoen; of

(c) in of in verband met die dokument of ander vorm van bewys by subartikel (1) beoog opsetlik 'n valse of misleidende verklaring maak,

is skuldig aan 'n misdryf.

(5) Any person who delivers stock to an auctioneer, agent or market master for the purpose of sale or disposal in any other manner, shall, in applying this section be deemed to have sold or disposed of such stock to the said auctioneer, agent or market master.

Acquisition of stock or produce from someone whose place of residence is unknown.

7. (1) Whenever stock or produce is —

(a) for the purposes of sale received into the possession of an auctioneer, agent or market master; or

(b) acquired by or received into the possession of any person not referred to in paragraph (a)

from someone (hereinafter referred to as the disposer) whose place of residence is unknown to the person contemplated by paragraph (a) or (b), such person shall ensure that, at the time of delivery to him of the said stock or produce, he is in possession of a certificate which has been acquired by him not more than thirty days before the date of such delivery in which a policeman of a rank equal to or above the rank of sergeant, a justice of the peace, at least two residents of substantial means of the vicinity where the transaction takes place or the person from whom the disposer purchased or acquired the said stock or produce, furnishes or furnish a description of the said stock or produce and certifies or certify that to the best of his or their knowledge and belief the disposer is entitled to dispose of or deal with such stock or produce.

(2) Any person who has obtained the certificate contemplated by subsection (1) shall retain such certificate in his possession for a period of at least three months from the date of delivery, during which period —

(a) any policeman, justice of the peace, or an owner, lessee or occupier of land may demand from such person an inspection of the said certificate; and

(b) such person shall be obliged to comply with any demand which is directed to him in terms of the provisions of paragraph (a).

(3) Any person who —

(a) contravenes or fails to comply with the provisions of this section;

(b) refuses or fails to comply with a demand made in terms of the provisions of subsection (2)(b); or

(c) wilfully makes a false or misleading statement in or in connection with the certificate contemplated by subsection (1) shall be guilty of an offence.

(5) Iemand wat aan 'n afslaer, agent of markmeester vee lewer om verkoop of op 'n ander wyse van die hand gesit te word, word by die toepassing van hierdie artikel, geag sodanige vee aan bedoelde afslaer, agent of markmeester te verkoop of van die hand te gesit het.

7. (1) Indien vee of produkte —

- (a) deur 'n afslaer, agent of markmeester vir verkoop in sy besit ontvang word; of
- (b) anders as by wyse van 'n openbare verkoping deur enige ander persoon verkry of in sy besit ontvang word

Verkryging van vee of produkte van iemand waarvan die woonplek onbekend is.

vanaf iemand (hieronder die beskikker genoem) waarvan die woonplek onbekend is aan die persoon by paragraaf (a) of (b) beoog, moet laasgenoemde persoon verseker dat hy ten tyde van die aflewering aan hom van bedoelde vee of produkte in besit is van 'n sertifikaat wat hoogstens dertig dae voor die datum van sodanige aflewering deur hom verkry is waarin 'n polisiebeampte met 'n rang wat gelykstaan aan of hoër is as die rang van sersant, 'n vrederegter, minstens twee redelike vermoende inwoners van die omgewing waar die transaksie plaasvind, of die persoon van wie die beskikker bedoelde vee of produkte gekoop of verkry het, 'n beskrywing van bedoelde vee of produkte verstrek en sertifiseer dat volgens sy of hulle hele kennis en oortuiging die beskikker geregtig is om sodanige vee of produkte van die hand te sit of daarvoor te beskik.

(2) Enige persoon wat die sertifikaat by subartikel (1) beoog verkry het, moet sodanige sertifikaat vir 'n tydperk van minstens drie maande vanaf die datum van aflewering van vee of produkte aan hom in sy besit hou, gedurende welke tydperk —

- (a) enige polisiebeampte of vrederegter, of 'n eienaar, huurder of okkupeerder van grond van sodanige persoon insae van bedoelde sertifikaat kan eis; en
- (b) sodanige persoon verplig is om te voldoen aan enige eis wat ingevolge die bepaling van paragraaf (a) aan hom gerig word.

(3) Enige persoon wat —

- (a) 'n bepaling van hierdie artikel oortree of versuim om daaraan te voldoen; of
- (b) weier of versuim om aan 'n eis ingevolge die bepaling van subartikel (2)(b) te voldoen, of
- (c) in of in verband met die sertifikaat by subartikel (1) beoog opsetlik 'n valse of misleidende verklaring maak,

is skuldig aan 'n misdryf.

Stock or produce driven, conveyed or transported on or along public roads or removed by the person entitled from land of another.

8. (1) No person shall drive, convey or transport any stock or produce of which he is not the owner on or along a public road unless he has in his possession a certificate (hereinafter referred to as a removal certificate), issued to such person by the owner of the said stock or produce or the duly authorised agent of such person in which is stated —

- (a) the full name and address of the person who issued the certificate;
- (b) the full name and address of the owner of the said stock or produce;
- (c) such particulars in regard to the said stock or produce as may be required in terms of any regulation made under section 16;
- (d) the place from which and the place to which the said stock or produce is being driven, conveyed or transported;
- (e) the full name and address of the person who drives, conveys or transports the said stock or produce; and
- (f) the date upon which such certificate is issued:

Provided that the provisions of this subsection shall not apply in respect of stock or produce which is, with the consent of the owner thereof or the duly authorised agent of such owner, being driven, conveyed or transported on or along a portion of a public road traversing land being the property of the said owner or being leased or occupied by such owner or agent.

(2) No owner of stock or produce or the duly authorised agent of such owner shall cause or permit such stock or produce to be driven, conveyed or transported by any other person on or along a public road unless the said owner or agent has previously furnished such other person with the removal certificate contemplated by subsection (1).

(3) A policeman, justice of the peace, or an owner, lessee or occupier of land, may demand from any person who is required in terms of the provisions of subsection (1) to have a removal certificate in his possession, an inspection of such certificate, and where a demand is thus made, such person shall be obliged to submit the said certificate for inspection to the person making the demand.

8. (1) Niemand mag enige vee of produkte waarvan hy nie die eienaar is nie, op of langs 'n openbare pad dryf, vervoer of transporteer nie tensy hy 'n sertifikaat (hieronder 'n verwyderingsertifikaat genoem) in sy besit het wat deur die eienaar van bedoelde vee of produkte of die behoorlik gemagtigde verteenwoordiger van sodanige eienaar aan so iemand uitgereik is, waarin vermeld word –

Vee of produkte op of langs openbare paaie gedryf, vervoer of getransporteer of verwyder deur reghebbende vanaf 'n ander se grond.

- (a) die volle naam en adres van die persoon wat die sertifikaat uitreik;
- (b) die volle naam en adres van die eienaar van bedoelde vee of produkte;
- (c) sodanige besonderhede met betrekking tot bedoelde vee of produkte as wat ingevolge 'n regulasie kragtens artikel 16 uitgevaardig, vereis word;
- (d) die plek waarvandaan en plek waarheen bedoelde vee of produkte gedryf, vervoer of getransporteer word;
- (e) die volle naam en adres van die persoon wat bedoelde vee of produkte dryf, vervoer of transporteer; en
- (f) die datum waarop sodanige sertifikaat uitgereik is:

Met dien verstande dat die bepalinge van hierdie subartikel nie van toepassing is nie ten opsigte van vee of produkte wat met die toestemming van die eienaar daarvan of met die toestemming van die behoorlik gemagtigde verteenwoordiger van sodanige eienaar, gedryf, vervoer of getransporteer word op of langs 'n deel van 'n openbare pad wat gaan oor grond wat die eiendom is van bedoelde eienaar of verteenwoordiger of deur sodanige eienaar of verteenwoordiger gehuur of geokkupeer word.

(2) Geen eienaar van vee of produkte of die behoorlik gevolmagtigde verteenwoordiger van sodanige eienaar mag daardie vee of produkte deur enige ander persoon op of langs 'n openbare pad laat dryf, vervoer of transporteer nie of sodanige ander persoon toelaat om daardie vee of produkte aldus te dryf, te vervoer of te transporteer nie tensy bedoelde eienaar of verteenwoordiger sodanige ander persoon vooraf met die verwyderingsertifikaat by subartikel (1) beoog voorsien het.

(3) 'n Polisiebeampte, vrederegter, of 'n eienaar, huurder of okkupeerder van grond, kan van enigiemand wat ingevolge die bepalinge van subartikel (1) verplig is om 'n verwyderingsertifikaat in sy besit te hê, insae van sodanige sertifikaat eis, en waar daar aldus geëis word, is so iemand verplig om bedoelde sertifikaat vir insae voor te lê aan die persoon wat dit eis.

(4) No stock or produce of which the ownership or control vests in a person who is or was in the employ of an owner, lessee or occupier of land shall be removed from such land by the said person unless such person is, at the time of the removal, in possession of a document acquired by him on a date not more than seven days before the date of such removal in which the said owner, lessee or occupier of land, or a policeman, furnishes a description of the said stock or produce and certifies that to his best knowledge and belief the person who is or was thus employed is entitled to remove such stock or produce on the last-mentioned date.

(5) An owner, lessee or occupier of land or the duly authorised agent of such owner, lessee or occupier, shall, at the request of a person who is, in terms of subsection (4), obliged to acquire a document for the removal of stock or produce, forthwith draw up and furnish the said document to such person.

(6) Any person who has obtained the document contemplated by subsection (4), shall retain such document in his possession for a period of at least one month from the date of removal, during which period —

- (a) any policeman or justice of the peace, or an owner, lessee or occupier of land may demand from such person an inspection of the said document; and
- (b) such person shall be obliged to comply with any demand which is directed to him in terms of the provisions of paragraph (a).

(7) Any person who —

- (a) contravenes or fails to comply with the provisions of this section;
- (b) refuses or fails to comply with a demand made in terms of the provisions of subsection (3) or (6)(a);
- (c) wilfully makes a false or misleading statement in or in connection with the removal certificate or the document contemplated by subsections (1) and (4) respectively; 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.

Arrest and search
without warrant.

9. (1) Any person may, without warrant, arrest any other person if the first-mentioned person has a reasonable suspicion that such other person has committed an offence mentioned in section 2 or 4.

(4) Geen vee of produkte waarvan die eiendomsreg of beheer by 'n persoon berus wat by 'n eienaar, huurder of okkupeerder van grond in diens is of was, mag deur bedoelde persoon van sodanige grond verwyder word nie tensy sodanige persoon ten tyde van die verwydering in besit is van 'n dokument, op 'n datum hoogstens sewe dae voor die datum van sodanige verwydering deur hom verkry waarin bedoelde eienaar, huurder of okkupeerder van grond of 'n polisiebeampte 'n beskrywing van bedoelde vee of produkte verstrek en sertifiseer dat volgens sy hele kennis en oortuiging die persoon wat aldus in diens is of was, op laasgenoemde datum geregtig is om sodanige vee of produkte te verwyder.

(5) 'n Eienaar, huurder of okkupeerder van grond of die behoorlik gemagtigde verteenwoordiger van sodanige eienaar, huurder of okkupeerder, moet, op die versoek van 'n persoon wat ingevolge subartikel (4) verplig is om 'n dokument vir die verwydering van vee of produkte te verkry, onverwyld bedoelde dokument opstel of laat opstel en aan sodanige persoon verstrek.

(6) Enige persoon wat die dokument by subartikel (4) beoog verkry het, moet sodanige dokument vir 'n tydperk van minstens een maand vanaf die datum van verwydering in sy besit hou, gedurende welke tydperk —

- (a) enige polisiebeampte of vrederegter, of 'n eienaar, huurder of okkupeerder van grond van sodanige persoon insae van bedoelde dokument kan eis; en
- (b) sodanige persoon verplig is om te voldoen aan enige eis wat ingevolge die bepalings van paragraaf (a) aan hom gerig word.

(7) Enige persoon wat —

- (a) 'n bepaling van hierdie artikel oortree of versuim om daaraan te voldoen;
- (b) weier of versuim om aan 'n eis ingevolge die bepalings van subartikel (3) of (6)(a) te voldoen;
- (c) in of in verband met die verwyderingsertifikaat of die dokument by subartikels (1) en (4) respektiewelik beoog, opsetlik 'n valse of misleidende verklaring maak; of
- (d) valslik verklaar dat hy die eienaar is van vee of produkte wat op of langs 'n openbare pad deur hom gedryf, vervoer of getranspoteer word,

is skuldig aan 'n misdryf.

9. (1) Enige persoon kan 'n ander persoon sonder lasbrief in hegtenis neem indien eersgenoemde persoon 'n redelike verdenking het dat sodanige ander persoon 'n misdryf vermeld in artikel 2 of 4 gepleeg het.

Inhegtenisneming en visentering sonder lasbrief.

(2) Whenever —

- (a) a policeman or justice of the peace, or an owner, lessee or occupier of land or the duly authorised agent of such owner, lessee or occupier has a reasonable suspicion that any other person keeps or 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 policeman, justice of the peace, owner, lessee, occupier or agent may, without warrant, remove the said covering and search the said vehicle; and
- (b) during the removal or search contemplated by paragraph (a) there is found stock or produce in regard to which the policeman, justice of the peace, owner, lessee, occupier or agent concerned has a reasonable suspicion that an offence has been committed, he may, without a warrant, arrest the other person mentioned in paragraph (a) and seize the said receptacle or vehicle, and shall as soon as possible convey such other person and the stock or produce thus found and the receptacle or vehicle so seized to a police station or charge office.

Malicious and unlawful or unjustified arrest and search.

10. (1) Any person who, on pretext of this Ordinance, wrongfully and maliciously or without reasonable cause arrests any other person or effects any search shall be guilty of an offence.

(2) In any prosecution on account of a contravention of the provisions of subsection (1), the onus shall be upon the accused to prove that the arrest or search which constitutes the subject of the charge did not occur wrongfully and maliciously or without reasonable cause.

(3) The provisions of this section shall not be construed so as to take away, substitute, prejudice or diminish any civil right or liability in respect of a malicious or wrongful arrest.

Competent verdicts in a prosecution on account of theft of stock or produce.

11. (1) In prosecuting a person on account of the theft of stock or produce, he may be found guilty of —

- (a) theft or attempted theft of that stock or produce; or
- (b) receiving that stock or produce knowing it to have been stolen;
- (c) soliciting, instigating, instructing or procuring another person to —

(i) steal such stock; or