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Government Notice

DEPARTMENT OF GOVERNMENTAL AFFAIRS

No. 137 1985

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation: —

No. 23 of 1985: Stock Theft Amendment Act, 1985

Goewermentskennisgewing

DEPARTEMENT VAN OWERHEIDSAKE

No. 137 1985

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie: —

Nr. 23 van 1985: Wysigingswet op Veediefstal, 1985

Act No. 23, 1985

STOCK THEFT AMENDMENT ACT, 1985

EXPLANATORY NOTE:

——— Words underlined with solid line indicate insertions proposed.

| | Words in bold typing in square brackets indicate omissions proposed.

ACT

To amend the Stock Theft Law Amendment Ordinance, 1935, so as to increase the penalties for contravention of the said Ordinance; to further regulate the compensation for damages to or loss of stock or produce; to repeal a certain discriminatory provision; and to amend the General Law Amendment Act, 1972, so as to delete an obsolete provision.

(Afrikaans text signed by the Administrator-General on 25 November 1985)

BE IT ENACTED by the National Assembly, as follows:-

Substitution of section 9 of Ordinance 11 of 1935, as amended by section 4 of Proclamation 15 of 1935.

1. The following section is hereby substituted for section 9 of the Stock Theft Law Amendment Ordinance, 1935 (hereinafter referred to as the Ordinance):

"Jurisdiction of magistrates' courts in respect of punishments.

9. Notwithstanding anything to the contrary contained in any law, a magistrate's court shall have jurisdiction to impose in the case of a conviction for any offence mentioned in paragraph (a), (b), (c) or (d) of section 5(1) -

(a) imprisonment for a period not exceeding three years; or

(b) whipping not exceeding seven strokes; or

(c) both such whipping and such imprisonment; or

(d) a fine not exceeding R3 000; or

(e) both such fine and such imprisonment.".

Substitution of section 10 of Ordinance 11 of 1935, as amended by section 5 of Proclamation 15 of 1935.

2. The following section is hereby substituted for section 10 of the Ordinance:

VERDUIDELIKENDE NOTA:

——— Woorde met 'n volstreep daaronder dui aan invoegings voorgestel.

| | Woorde in vet druk tussen vierkantige hake dui aan skrappings voorgestel.

WET

Tot wysiging van die Veediefstal Wet Wysigingsordonnansie, 1935, ten einde die strawwe vir oortreding van bedoelde Ordonnansie te verhoog; die vergoeding weens skade aan of verlies van vee of produkte verder te reël; 'n sekere diskriminerende bepaling te herroep; en tot wysiging van die Algemene Regswysigingswet, 1972, ten einde 'n sekere verouderde bepaling te skrap.

(Afrikaanse teks deur die Administrateur-generaal onderteken op 25 November 1985)

DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

Vervanging van artikel 9 van Ordonnansie 11 van 1935, soos gewysig deur artikel 4 van Proklamasie 15 van 1935.

1. Artikel 9 van die Veediefstal Wet Wysigingsordonnansie, 1935 (hieronder die Ordonnansie genoem), word hierby deur die volgende artikel vervang:

"Regsbevoegdheid van landdroshowe ten opsigte van strawwe.

9. Ondanks andersluidende bepalings van die een of ander wet is 'n landdroshof regsbevoeg tot die oplegging in die geval van 'n veroordeling weens 'n misdryf in paragraaf (a), (b), (c) of (d) van artikel 5(1) genoem, van -

(a) gevangenisstraf vir 'n tydperk van hoogstens drie jaar; of

(b) lyfstraf van hoogstens sewe houe; of

(c) daardie lyfstraf sowel as daardie gevangenisstraf; of

(d) 'n boete van hoogstens R3 000; of

(e) daardie boete sowel as daardie gevangenisstraf.".

Vervanging van artikel 10 van Ordonnansie 11 van 1935, soos gewysig deur artikel 5 van Proklamasie 15 van 1935.

2. Artikel 10 van die Ordonnansie word hierby deur die volgende artikel vervang:

Act No. 23, 1985 **STOCK THEFT AMENDMENT ACT, 1985**

"Penalty where not otherwise provided for.

10. Any person who is convicted of an offence under this Ordinance for which no penalty is otherwise provided shall be liable to the penalties which may by law be imposed for the crime of theft.".

Substitution of section 11 of Ordinance 11 of 1935, as substituted by section 29 of Act 102 of 1972.

3. The following section is hereby substituted for section 11 of the Ordinance:

"Compensation for damages to or loss of stock or produce.

11. Whenever any court convicts any person of an offence referred to in section 5(1)(a), (b), (c) or (d) which has caused damage to or loss of stock or produce -

(a) the court shall direct the attention of the owner thereof, if present in court, to the provisions of section **[344]** 300 of the Criminal Procedure **[Ordinance, 1963 (Ordinance No. 34 of 1963)]** Act, 1977 (Act 51 of 1977);

(b) the court, in the case of a magistrate's court, may, notwithstanding the provisions of paragraph (a) of the proviso to subsection (1) of the said section 300, make, in accordance with the provisions of the said section 300, an award not exceeding R10 000.".

Repeal of section 12 of Ordinance 11 of 1935, as amended by section 9 of Proclamation 15 of 1935.

4. Section 12 of the Ordinance is hereby repealed.

Amendment of section 29 of Act 102 of 1972.

5. Section 29 of the General Law Amendment Act, 1972, is hereby amended by the deletion of subsection (2).

Short title.

6. This Act shall be called the Stock Theft Amendment Act, 1985.

"Straf waar nie andersins voorgeskryf nie.

10. Iemand wat veroordeel word weens 'n misdryf ingevolge hierdie Ordonnansie waarvoor geen straf andersins voorgeskryf is nie, is strafbaar met die strawwe wat regtens vir die misdryf diefstal opgelê kan word.".

3. Artikel 11 van die Ordonnansie word hierby deur die volgende artikel vervang:

Vervanging van artikel 11 van Ordonnansie 11 van 1935, soos vervang deur artikel 29 van Wet 102 van 1972.

"Vergoeding vir skade aan of verlies van vee of produkte.

11. Wanneer 'n hof iemand veroordeel weens 'n in artikel 5(1) (a), (b), (c) of (d) vermelde misdryf waardeur skade aan of verlies van vee of produkte veroorsaak is -

(a) vestig die hof die aandag van die eienaar daarvan, indien hy in die hof aanwesig is, op die bepalings van artikel **[344]** 300 van die **[Strafprosesordonnansie, 1963 (Ordonnansie No. 34 van 1963)]** Strafproseswet, 1977 (Wet 51 van 1977);

(b) kan die hof, in die geval van 'n landdroshof, ondanks die bepalings van paragraaf (a) van die voorbehoudsbepaling by subartikel (1) van genoemde artikel 300, ooreenkomstig die bepalings van genoemde artikel 300, 'n toekenning doen wat nie R10 000 te bowe gaan nie.".

4. Artikel 12 van die Ordonnansie word hierby herroep.

Herroeping van artikel 12 van Ordonnansie 11 van 1935, soos gewysig deur artikel 9 van Proklamasie 15 van 1935.

5. Artikel 29 van die Algemene Regswysigingswet, 1972, word hierby gewysig deur subartikel (2) te skrap.

Wysiging van artikel 29 van Wet 102 van 1972.

6. Hierdie Wet heet die Wysigingswet op Veediefstal, 1985.

Kort titel.