



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No.3351

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 275

2004

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 19 of 2004: Stock Theft Amendment Act, 2004.

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Stock Theft Act, 1990, so as to insert a certain definition; to provide for minimum sentences in respect of certain offences; to provide anew for the jurisdiction of magistrates' courts; to adjust a provision relating to compensation that may be awarded to persons for loss or damage suffered as a result of certain offences committed; and to provide for matters incidental thereto.

(Signed by the President on 1 December 2004)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act No. 12 of 1990, as amended by section 1 of Act No. 19 of 1993

1. Section 1 of the Stock Theft Act, 1990 (hereinafter referred to as the principal Act) is amended by the insertion of the following definition before the definition of "Inspector-General":

"'Criminal Procedure Act' means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);"

Substitution of section 14 of Act No. 12 of 1990, as amended by section 6 of Act No. 4 of 1991 and substituted by section 3 of Act No. 19 of 1993

2. The following section is substituted for section 14 of the principal Act:

"Penalties for certain offences

14. (1) Any person who is convicted of an offence referred to in section 11(1)(a), (b), (c) or (d) that relates to stock other than poultry -

(a) of which the value -

(i) is less than N\$500, shall be liable in the case of a first conviction, to imprisonment for a period not less than two years without the option of a fine;

(ii) is N\$500 or more, shall be liable in the case of a first conviction, to imprisonment for a period not less than twenty years without the option of a fine;

(b) shall be liable in the case of a second or subsequent conviction, to imprisonment for a period not less than thirty years without the option of a fine.

(2) If a court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence than the sentence prescribed in subsection (1)(a) or (b), it shall enter those circumstances on the record of the proceedings and may thereupon impose such lesser sentence.

(3) A sentence of imprisonment imposed in respect of an offence referred to in section 11(1)(a), (b), (c) or (d), or an additional sentence of imprisonment imposed under section 17(1)(b) in respect of non-compliance with an order of compensation, shall, notwithstanding anything to the contrary in any law contained, not run concurrently with any other sentence of imprisonment imposed on the convicted person.

(4) The operation of a sentence, imposed in terms of this section in respect of a second or subsequent conviction of an offence referred to in section 11(1)(a), (b), (c), or (d), shall not be suspended as contemplated in section 297(4) of the Criminal Procedure Act, if such person was at the time of the commission of any such offence eighteen years of age or older."

Substitution of section 15A of Act No. 12 of 1990, as inserted by section 4 of Act No. 19 of 1993

3. The following section is substituted for section 15A of the principal Act:

"Jurisdiction of magistrates' courts

15A. Notwithstanding anything to the contrary contained in any other law -

- (a) a magistrate's court of a regional division shall have jurisdiction to impose any penalty or additional penalty provided for in this Act, even though the penalty may, either alone or together with any additional penalty imposed by the court, exceed the punitive jurisdiction of the court; and
- (b) a magistrate's court of a district or a regional division shall have jurisdiction to make any order under section 17 irrespective of the amount payable under that order."

Amendment of section 17 of Act No. 12 of 1990

4. The following section is substituted for section 17 of the principal Act:

"Compensation for damage to, or loss of, stock

17. (1) Where a person is convicted of an offence referred to in section 11(1)(a), (b), (c) or (d) that has caused loss or damage to another person, the court may, notwithstanding anything to the contrary in any other law contained, but subject to subsection (2), enquire into, and determine the extent of, the loss or damage suffered and, in addition to any sentence that it may impose on the convicted person in respect of the offence -

- (a) order the convicted person to pay compensation to the person who has suffered such loss or damage; and
- (b) in default of payment of such compensation, impose on the convicted person an additional sentence of imprisonment for a period not exceeding three years.

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STOCK THEFT AMENDMENT ACT, 2004

(2) An order for compensation made under subsection (1) shall, notwithstanding anything to the contrary contained in the Criminal Procedure Act, be for such amount as the court may consider appropriate, but not exceeding the sum of the actual loss or damage suffered and loss or damage arising from or in connection with or attributable to the offence in respect of which such order is made."

Short title

5. This Act is called the Stock Theft Amendment Act, 2004.
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