GAME THEFT ACT
NO. 105 OF 1991

Assented to: 27 June 1991 Date of commencement: 5 July 1991

ACT
To regulate the ownership of game in certain instances; to combat the theft and wrongful and unlawful hunting, catching and taking into possession of game; and to provide for matters connected therewith.

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1. Definition

In this Act, unless the context otherwise indicates-

game means all game kept or held for commercial or hunting purposes, and includes the meat, skin, carcass or any portion of the carcass of that game.

2. Ownership of game

Notwithstanding the provisions of any other law or the common law-

(a) a person who keeps or holds game or on behalf of whom game is kept or held on land that is sufficiently enclosed as contemplated in subsection (2), or who keeps game in a pen or kraal or in or on a vehicle, shall not lose ownership of that game if the game escapes from such enclosed land or from such pen, kraal or vehicle;

(b) the ownership of game shall not vest in any person who, contrary to the provisions of any raw or on the land of another person without the consent of the owner or lawful occupier of that land, hunts, catches or takes possession of game, but it remains vested in the owner referred to in paragraph (a) or vests in the owner of the land on which it has been so hunted, caught or taken into possession, as the case may be.

(2)(a) For the purposes of subsection (1) (a) land shall be deemed to be sufficiently enclosed if, according to a certificate of the Administrator of the province in which the land is situated, or his assignee, it is sufficiently enclosed to confine to that land the species of game mentioned in the certificate.

(b) A certificate referred to in paragraph (a) shall be valid for a period of three years.

3. Entering land or dispersing or luring away game with intent to steal game

(1) Any person who-

(a) enters another person's land with intent to steal game thereon or to disperse game from that land; or

(b) without entering a other person's land, intentionally disperses or lures away game from another person's land,

shall be guilty of an offense.

(2) If in a prosecution for a contravention of subsection (1) it is proved that the accused wrongfully and unlawfully entered another person's land upon which there is game or that he wrongfully and unlawfully dispersed or lured away game from another person's land, it shall be presumed that he had the intent to steal game or to disperse or lure away game from the land, as the case may be, unless the contrary is proved.

4. **Arrest and search**

(1) Any peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or the owner or lawful occupier of land upon which there is game may without warrant arrest any person upon reasonable suspicion that such person has stolen game, or has wrongfully and unlawfully hunted, caught or taken into possession game, or that he has contravened section 3.

(2) If any peace officer, owner or lawful occupier referred to in subsection (1) reasonably suspects that any person has in or under any receptacle or covering or in or upon any vehicle any game which has been stolen or which has been wrongfully and unlawfully hunted, caught or taken into possession, such peace officer, owner or occupier may without warrant search such receptacle or vehicle and remove such covering, and if he thereupon finds any game which he reasonably suspects to have been so stolen, hunted, caught or taken into possession, he may without warrant arrest such person and seize such game, receptacle, covering or vehicle and shall as soon as possible convey such person and the game, receptacle, covering or vehicle so seized to a police station or charge office.

5. **Malicious arrest and search**

(1) Any person who under the pretext of this Act wrongfully and maliciously arrests any person or causes him to be arrested or effects any search shall be guilty of an offense and liable on conviction to a fine not exceeding R4 000 or in default of payment to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(2) On any charge under subsection (1) it shall be presumed that the search or arrest was malicious, unless the contrary is proved.

(3) Nothing in this section contained shall be construed as taking away or diminishing any civil remedy or liability in respect of a wrongful or malicious arrest.

6. **Jurisdiction of magistrates' courts in respect of sentence**

Notwithstanding anything to the contrary in any law contained, any magistrate's court shall have jurisdiction to impose, in respect of a contravention of section 3 or the theft of game, or

a contravention of section 36 or 37 of the General Law Amendment Act, 1955 (Act No. 62 of 1955), if the goods involved in such an offense are game-

(a) where the court is not a court of a regional division, a fine not exceeding R8 000 or in default of payment imprisonment not exceeding two years or both such fine and such imprisonment in the case of a first conviction and in the case of a second or further conviction, imprisonment for a period not exceeding three years;

(b) where the court is a court of a regional division, a fine not exceeding R40 000 or in default of payment imprisonment not exceeding ten years or both such fine and such imprisonment.

7. **Compensation for theft of or damage to game**

Whenever any court convicts any person of the theft of game or of malicious damage to property where the property is game-

(a) the court shall direct the attention of the owner of the game, if present in court, to the provisions of section 300 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) the court may, notwithstanding the provisions of paragraph (a) of the proviso to subsection (1) of the said section 300, in accordance with the provisions of the said section 300-

(i) where the court is not a court of a regional division, make an award not exceeding R20 000 or such amount as the Minister of Justice may from time to time determine by notice in the *Gazette*;

(ii) where the court is a court of a regional division, make an award not exceeding R75 000 or such amount as the Minister of Justice may from time to time determine by notice in the *Gazette*.

8. **Competent verdict**

If the evidence on a charge of theft of game does not prove that game has been stolen, but it is proved that stock as defined in section 1 of the Stock Theft Act, 1959 (Act No. 57 of 1959), has been stolen, the accused may be found guilty of the theft of such stock.