

The farmer's guide to the prevention
and handling of stock theft



MANUAL FOR THE **PREVENTION OF STOCK THEFT**

NATIONAL STOCK THEFT PREVENTION FORUM



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The farmer's guide to the prevention
and handling of stock theft

by
the National Stock Theft Prevention Forum



in collaboration with



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What type of livestock is covered?

The policy covers sheep, cattle and goats. Pigs are also covered, but not for diseases. Livestock must be over the age of six months old and not more than seven years in age.

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Without the assistance of my collaborators – Willie Clack, Capt Rassie Erasmus, Maj Steve Roets and Adv Jacques Swanepoel – who submitted their contributions on time and assisted with technical support, it would not have been possible to compile this book.

Last but not least, I am indebted to the red meat industry and the other sponsors for their generous contributions to the production of the book.

Karen Grobler

Editor

PREFACE



Farm animals are an important part of the daily lives of many people in South Africa, from individuals and families with one or two animals, to smallholders and medium to large-scale farmers with larger herds and flocks. Owners or keepers of livestock are potential victims of stock theft, one of the biggest threats to the stability of the animal agriculture sector in the country.

Any initiative to counteract this threat is commendable and deserves support. This manual is one such initiative. What makes it unique is that it is a combined effort between organised agriculture and Government. It clearly shows we are equally concerned about the problem of stock theft and are committed to do whatever possible to manage the problem. We need to ensure that those who take animals belonging to others without permission are apprehended and suitably dealt with.

It is a comprehensive manual that includes pro-active steps such as the registration of an owner, animal identification mark and how to brand and/or tattoo animals correctly to ensure proof of ownership, resulting in more effective recovery of stolen animals. These measures apply to all stock owners, from those who have less than ten animals to those with hundreds.

I am proud to be associated with this book and recognise it as an initiative that started 20 years ago when the national and provincial stock theft prevention forums were established. I commend all those who have given their time and energy over the years and trust that this publication will be used wisely and effectively to assist in the prevention of stock theft in South Africa.

Minister Senzeni Zokwana

Minister of Agriculture, Forestry and Fisheries

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INTRODUCTION

Every livestock owner should keep this comprehensive guide in the bakkie or on the bedside table. It is the farmer's one-stop guide to the prevention and handling of stock theft. Most of the information in the guide is known and available, but it has never been combined in a single guide before.


The guide covers all aspects of stock theft and the combatting thereof. The two best-known acts applicable to stock theft – the Animal Identification Act and the Stock Theft Act – are dealt with in detail. Other relevant legislation such as the Trespassing Act and the Fencing Act is also discussed.

The correct action that the farmer could expect from officials after stock theft has occurred, how the criminal procedure works and which doors to knock on if you are dissatisfied, are highlighted. QR codes are used throughout to provide the reader access to the acts as they appear in the *Government Gazette*. The various articles of the Acts that are discussed are quoted verbatim at the beginning of the discussion (in grey boxes), followed by a discussion of the implications for livestock owners.

All legislation falls into one of the following categories:

- A mandatory regulation compels specific action that has to be followed. In the case of non-compliance a consequence (e.g. a penalty) is sometimes indicated. This means that the stock owner is obliged to comply with the act. Such stipulations generally contain words such as “must”, “shall”, “is compelled”, etc.
- An authorising regulation stipulates the kind of action that is allowed. The act thus allows a person to carry out certain actions in a specific way. This does not mean that a person is compelled to carry out the action. Authorising regulations generally contain words such as “may”, “can”, “is authorised to”, “is allowed to”, “is qualified to”, etc.
- A prohibiting regulation prohibits certain actions. It stipulates that certain actions are not permissible. Normally it is accompanied by a sanction or penalty that becomes effective if the regulation is contravened. Such regulations generally contain words such as “no one may”, “no person shall”, “may not”, “it is not permissible to”, “shall not”, etc.

With this manual, stock owners no longer have the excuse that they do not know what their obligations are. Use this guide, apply the legislation and in this way play your part in the battle against stock theft.



*Mark all stock with
a tattoo or brand
as required by law*

CHAPTER 1 ANIMAL BRANDING

01

The increase in stock theft is in many instances attributable to the fact that animals are not marked properly. Feeding pens, farmers, speculators, auctioneers, abattoirs and buyers at auctions can knowingly or unknowingly be the receivers of stolen animals. In doing so they are breaking the law and stand to receive a hefty fine or be prosecuted.

1.1 IDENTIFICATION OF ANIMALS

A legitimate permanent mark is the first line of defence against stock theft. In South Africa the law provides for an effective animal identification system.

The Animal Identification Act (Act 6 of 2002) renders the marking of stock compulsory. This helps the industry and the South African Police Service (SAPS) to combat stock theft and recover stolen livestock more easily. It is, however, evident that most people and institutions trading in livestock do not comply with the regulations of the relevant legislation – thus they do not meet the basic requirements to combat stock theft.

Many stock theft court cases have to be struck off the roll owing to disputes about the positive identification of stolen animals and because ownership cannot be proven. Such disputes could be avoided if animals are marked with a registered brand or tattoo.

Hot iron brands for cattle and tattoos for small stock remain the most cost-effective ways in which to mark these animal groups.

The Animal Identification Act replaced the Livestock Brands Act (Act 87 of 1962). The new Act manages the national register for

animal identification marks, serves as a strengthened line of defence against stock theft, simplifies the identification of property and aids tracing of animals.

Use
QR codes

Go to **www.gettag.mobi** on your phone's web browser. Click on download. The scanner is free and you only pay for data costs. If you have a smartphone such as an iPhone, BlackBerry, HTC etc, go to the App store, search for Tag Reader, click and download.



Click on this QR code for the complete Animal Identification Act (Act 6 of 2002).

THE ANIMAL IDENTIFICATION SYSTEM

The animal identification system (AIS) is the national register of animal identification marks in South Africa. At this stage only the SAPS has access to the system.

The AIS is a very user-friendly system that can be used by any official after a short period of training.



Enforcement of the Act

(section 2)

This Act applies –

- (a) in respect of the animals declared by the Minister by notice in the Government Gazette; and
- (b) to the whole of the national territory of the Republic of South Africa.

The Act applies to the whole country and it is compulsory to mark all cattle, sheep, goats and pigs. Legitimate marks have several benefits:

- visible deterrent – stock thieves are more inclined to steal animals that are not marked
- positive identification
- positive proof of ownership
- more effective policing
- more effective recovery rate
- enables tracing.

What is an identification mark?

(section 4)

The Minister must prescribe identification marks in respect of each group of animals to which marks may be allocated in terms of section 5.

An identification mark is any registered mark made or placed on an animal for whatever purpose and that is prescribed by the Minister.

The following marks are exceptions:

- a mark on the hoof or horn
- a paint mark
- a clasp, rivet or tag affixed to the ear
- a notch or hole.

How to register an identification mark (section 5)

Application for registration of an identification mark must be made to the registrar in the prescribed manner and be accompanied by the prescribed fee. If the application complies with the requirements of this Act the registrar must –

- (a) allocate an identification mark to the applicant;
- (b) register such identification mark in the applicant's name; and
- (c) issue to the applicant a certificate of registration of that identification mark.

- All owners must apply for a registered identification mark.

- Forms are available from extension offices, magistrate's offices, the SAPS stock theft units or the Registrar of Animal Identification.
- A one-off registration fee is payable – buy revenue stamps from the Post Office to pay for the registration and affix them to the bottom of the form where indicated.

Address the envelope to:
The Registrar: Animal Identification,
Private Bag X138, Pretoria, 0001.

- All identification marks must be registered.
- The registration is placed on the national register of animal identification marks.
- It could take up to two weeks to register an identification mark.



Transfer of identification marks (section 9)

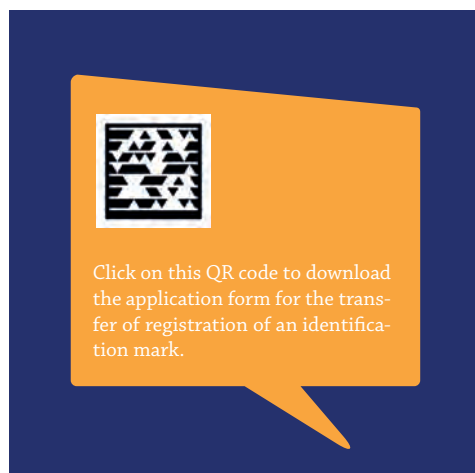
Any owner of an animal may apply in the prescribed manner to the registrar for the transfer of the registration of an identification mark from the name of any other person to his or her name.



An animal identification mark can be transferred from one stock owner to another. To do this, the new owner must apply for the transfer of the identification mark to the Department of Agriculture, Forestry and Fisheries.

In the case of death of the legitimate owner, the identification mark may be transferred if the executor of the estate grants permission for the transfer. If there is no executor, the new owner may furnish a copy of the death certificate and a letter of authority issued by the High Court, which declares the new owner the legitimate owner of the animals.

Then follow the same procedure as for the registration of an animal identification mark.



Duties of owners (section 7)

- All owners of cattle, sheep, goats and pigs must register an identification mark with the Registrar of Animal Identification.
- Every owner must mark his or her animals in the prescribed manner.
- All cattle, sheep, goats and pigs of which the identification mark has become indistinct or invisible, must be re-identified in accordance with the legal provisions.
- An owner of an animal with an identification mark on it who wants to sell, barter or give away the animal within 14 days after

he or she became the owner of such animal, must provide the new owner with a document of identification.

This means that the animal may be disposed of within 14 days without having been branded with the new owner's mark, since it already has the previous owner's mark and a document of identification has been issued.

An owner who wants to sell, barter or give away an animal after 14 days of becoming the owner of such animal, must mark the animal with his or her own mark before disposing of it. The owner must also provide the new owner with a document of identification. The new owner must keep the document of identification for a period of one year.

This means that after 14 days the animal cannot be disposed of without having been branded by the new owner's mark and a document of identification provided.

1.2 LEGAL IMPLICATIONS

Marking of registered (stud) animals [section 15(2)]

Paragraphs (a), (c) and (e) of subsection (1) do not apply in respect of –

- (a) the marking of animals in accordance with the rules or by-laws of an animal breeders' society or registering authority as defined in section 1 of the Animal Improvement Act (Act 62 of 1998); or
- (b) the marking by the breeder thereof, of an animal which has been registered or recorded, as the case may be, with the South African Stud Book and Livestock Improvement Association.

- Registered animals are marked with marks issued by the relevant breeders' society.
- The breeders' society will prescribe the method of marking (branding or tattooing).
- Certificates of registration issued by the breeders' society must accompany registered animals that are sold at public auctions.

Alternative identification methods [section 8(5)]

An owner may, in the prescribed manner, apply for an alternative method of identification. The registrar may specify alternative methods of identification by notice in the Government Gazette.

It is now possible to apply to the registrar for alternative methods of animal identification. Stock owners must, however, take note that

this will not apply to individual owners. Only applications for the marking of specific groups of animals or species will be considered.

Should such a request be granted, it would be subjected to strict conditions in order to simplify the work of the inspector and the SAPS. Provisions that would be implemented in such a case would include the application of a single mark (brand or tattoo) indicating that the animals are microchipped.

It will also be a requirement that all those using the method have a scanner/reader available at all times.

Illegal marking of animals

(section 15)

No person may mark an animal with a:

- mark which has not been registered
- registered identification mark without the authorisation of the owner of such a mark
- registered identification mark otherwise than prescribed
- mark which is registered in the name of another person who is not the owner of the animal
- mark that is not a prescribed mark for the group to which the animals belong.

Offences (section 16)

Any person doing one of the following commits an offence:

- a marking operator who fails to keep a register
- anyone with animals in his or her possession that are not marked in accordance with or in a manner allowed by the Act
- anyone who alters, mutilates or erases the identification mark on an animal
- anyone who sells an animal of which the identification mark is altered, mutilated or cancelled
- anyone who sells an animal of which an ear has been cut off without any lawful reason.

The sentence for these offences is a fine or imprisonment not exceeding a period of six months, or both such fine and imprisonment.

Marking operators (section 11)

Any person who wants to mark animals other than his or her own animals for financial gain must apply in the prescribed manner to the registrar for registration as a marking operator and pay the prescribed fee.

If the applicant complies with the prescribed requirements the registrar must register him or her as a marking operator.

A marking operator must in the prescribed manner keep a register of animals marked by him or her.

The registrar must in the prescribed manner keep a register of marking operators.



How to register

- Complete a marking operator course.
- You must fill in an application form obtainable from the course presenter.
- An application fee is payable.
- Payment can be made by cheque or postal order.
- Address the envelope to:

The Registrar: Animal Identification
Private Bag X138
Pretoria
0001

Marking operator courses

The registrar will inform the applicant where to attend the prescribed course. The course will include the following:

- the theory and technique of hot iron branding
- the theory and technique of freeze branding
- the theory and technique of tattooing
- the theory and technique of restraining and marking animals
- the legislation regarding the welfare of animals.

Register of marking operator records

The following information must appear in the marking operator's register:

- name and address of owner whose animals were marked
- date on which the animals were marked
- type or specified breed marked
- number of animals marked
- method of identification
- date on which the owner's identification mark was registered
- the owner's registered identification mark.

1.3 REGULATIONS (SECTION 18)

The Minister may make regulations regarding –

- (a) the size, shape, pattern and composition of identification marks;
- (b) the size, shape and construction of marking instruments;
- (c) the age which animals must have attained before they must be marked;
- (d) the manner in which, the parts on which, and the material with which animals shall or may not be marked;
- (e) the conditions on which an owner of animals may obtain the registration of more than one identification mark in respect of the same group of animals, and
- (f) any matter that may or must be prescribed in terms of this Act.

The Minister may make different regulations in respect of different kinds of identification marks, different groups of animals and different areas.



Letter sizes [section 18(9)]

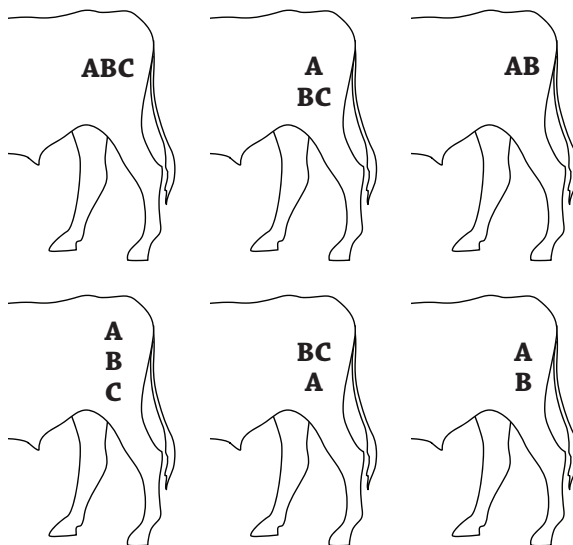
- Tattoos may not exceed 20 mm (width or height).
- Brand marks must be between 40 and 100 mm (width or height).



Form, pattern and composition

[section 18(10)]

- An identification mark can consist of one to three letters or symbols (characters).
- A three-letter mark can be used in four different ways.
- A two-letter mark can be used in two different ways.
- The letters may not touch one another.
- The same mark may be used on cattle and small stock.



See example of letters and symbols on p. 22.



Age of animals at the time of marking [section 18(11)]

Cattle:

- must be marked by the age of six months
- can be tattooed from the age of one month, or
- can be branded at the age of six months, and
- must be branded by the age at which the first pair of permanent incisors appear (two-tooth stage).

Small stock:

- must be tattooed at the age of one month.

Pigs:

- must be tattooed at the age of one month.

Ostriches:

- can be tattooed at the age of one month, and
- can be branded at the age of six months.

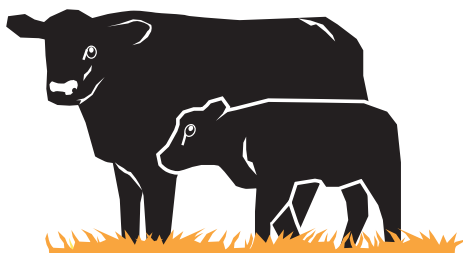
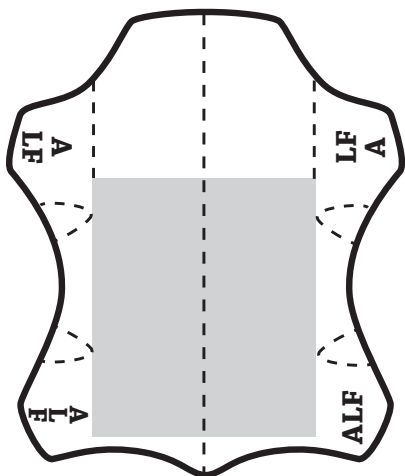
Horses:

- can be tattooed at the age of six months, and
- can be branded by the age of twelve months.

Parts on which animals must be identified [section 18 (12)]

Cattle

- **Tattooing:** in the left or right ear.
- **Branding:** on any clearly visible part, excluding the neck.
- Refer to figure below. Put the **brand** at any place outside the square.
- The **first owner** can put the mark on the left hind leg, the **second owner** can put it on the left shoulder, the **third owner** can put it on the right hind leg and the **fourth owner** on the right shoulder.
- Remember: you can suffer financial loss on hides if you mark the valuable areas.



Ostriches

- Tattoo ostriches younger than six months underneath the left wing.
- Brand ostriches older than six months on the thighs.
- The **first owner** can put the brand on the outer side of the left thigh and the **second owner** on the outer side of the right thigh.
- Ostriches are branded according to their age. No ostriches younger than six months may be branded with a hot iron. Ostriches younger than six months may be tattooed.
- The characters of a brand or tattoo may not exceed 25 mm (width or height).
- The brand or tattoo may only have two characters, which must be placed 6 mm from each other.
- Brand characters may be placed next to or below each other.
- Tattoo characters may be placed next to each other.

Sheep, goats and pigs

- The **first owner** can put the tattoo in the **left ear**, the **second owner** in the **right ear** (refer to figure on the right).
- The letters of the tattoo may not exceed 20 mm (width or height).
- The mark can have one, two or three characters.
- You must place the letters next to one another.



1.4 MARKING MANUAL FOR HOT IRON BRANDING, FREEZE BRANDING AND TATTOOING

Marking with a hot iron

1. Use a separate iron for each character of the mark. It is easier, but not compulsory.
2. Get everything ready before you start marking. Make sure that the sequence of the registered mark is correct according to the certificate of registration. This can be tested on a piece of wood.
3. Get someone to help you. The helper must bring the animal closer and hold it firmly. It will be easier if you have more than one helper.
4. Heat the iron well. When the iron becomes an ash-grey colour, it is a sign that it is hot enough. You may test the iron on a piece of wood to see if it is hot enough.
5. Immobilise the animals with an immobiliser or knee-halter so that they do



not kick you. The immobilisation of the voluntary muscles prevents the animal from moving.

6. Take the first iron and put it against the animal's skin for three counts. Do not press. Count 1, 2, 3 slowly. Take off the iron. Take the second iron and do the same with the third. The mark is now complete. Clean each iron after use with a steel brush to get rid of the burnt skin and hair.
7. Use an ice apparatus to cool down the wound or spray cold water onto the animal's skin to cool it down.
8. You can also apply wound oil to the wound. Do not wipe it with a cloth and never rub manure on the wound.

Marking with a freeze branding iron

Equipment needed for freeze branding:

- coolant – dry ice in ethyl, methyl or isopropyl alcohol and liquid nitrogen
- isolated container for the coolant
- set of copper or high-quality bronze alloy branding irons
- set of clippers
- 95% ethyl or methyl alcohol
- gloves.

1. Get everything ready before you start branding.
2. Get someone to help you. The helper must bring the animal closer and hold it firmly. If you have a crushing pen, the branding process will be easier.
3. Immobilise the animals with an immobiliser or knee-halter so that they do not kick you.
4. Shave off the hair on the spot to be branded.
5. Freeze the iron by putting it in the liquid nitrogen or in spirits that has been chilled to -40°C by means of dry ice.
6. When the irons stop giving off bubbles, they are cold enough to brand letters onto the skin. Shake off the nitrogen or spirits, otherwise the flow-off will also leave a mark on the skin.
7. Press hard for the following exposure times:
 - animals of six to eight months: 20 to 25 seconds
 - animals of nine to 18 months: 25 to 30 seconds
 - animals over 18 months: 30 to 35 seconds.

Marking by means of tattooing

A third method of identification is the tattooing of animals by means of tattoo pliers and ink.

1. Get everything ready before you start tattooing.
2. Get someone to help you. The helper must bring the animal closer and hold it firmly.
3. Put the characters in the right order and position in the tattoo pliers – according to the certificate of registration.
4. Clean the ears before the ink is applied – dirt and oil in the ears will prevent the ink from filling the tattoo holes made by



the tattoo pliers. Press the tattoo pliers until holes appear on the skin.


5. Rub the ink into the holes. The tattooing process is now complete.



Source: *Infopak: Identification of animals in terms of the Animal Identification Act (Act 6 of 2002)*, Department of Agriculture, Forestry and Fisheries, September 2010.

1.5 LETTERS AND SYMBOLS

A _A	Λ _{A1}	∇ _{A2}	∇ _{A3}	S _S	S _{S1}		2 _{S0}
B _B	B _{B1}	B _{B2}	B _{B3}	T _T	T _{T1}	T _{T2}	T _{T3}
C _C	C _{C1}	C _{C2}	C _{C3}	U _U	U _{U1}	U _{U2}	U _{U3}
D _D	D _{D1}	D _{D2}	D _{D3}	V _V	V _{V1}	V _{V2}	V _{V3}
E _E	E _{E1}	E _{E2}	E _{E3}	W _W	W _{W1}	W _{W2}	W _{W3}
F _F	F _{F1}	F _{F2}	F _{F3}	X _X			
G _G	G _{G1}	G _{G2}	G _{G3}	Y _Y	Y _{Y1}	Y _{Y2}	Y _{Y3}
H _H	I _I	[_[] _{]₂}	Z _Z	Σ _{Σ0}	Δ _{Δ4}	◇ _{◇5}
J _J	J _{J1}	J _{J2}	J _{J3}	^ _^	^ _{^2}	[_{[1}	[_{[3}
K _K	K _{K1}	K _{K2}	K _{K3}	(₍₁	(₍₃	+ ₊	- ₋
L _L	L _{L1}	L _{L2}	L _{L3}	♥ _{♥6}	♥ _{♥61}	♥ _{♥62}	♥ _{♥63}
M _M	M _{M1}	M _{M2}	M _{M3}	♣ _{♣7}	♣ _{♣71}	♣ _{♣72}	♣ _{♣73}
N _N	N _{N0}		O _O	Y _{Y8}	Y _{Y81}	Y _{Y82}	Y _{Y83}
P _P	P _{P1}	P _{P2}	P _{P3}	Y _{Y9}	Y _{Y91}	Y _{Y92}	Y _{Y93}
Q _Q	Q _Q	\$ _{\$}	\$ _{\$1}	F _{F0}	G _{G0}	J _{J0}	P _{P0}
R _R	R _{R1}	R _{R2}	R _{R3}	R _{R0}	*	(₍) ₎₂



*Keep a full record
of all documents of
identification and
removal certificates*

MARKETING OF ANIMALS

CHAPTER 2

02

Marketing of livestock is a farming process that involves certain decisions. The age, weight and fertility of the animals and many other factors all play a role.

The main reason for marketing is economic: animals are sold for financial gain.

The financial side of marketing includes the use of a receipt book, cheque book, electronic fund transfers (EFTs), VAT invoice and other related matters. Most stock farmers are conscientious with these aspects, but fail to realise that they may be contravening other legislation unrelated to the South African Revenue Service (SARS).

Legislation regulating the marketing of livestock protects the owner and all role players in the red meat value chain to whom livestock is delivered. To this end, the Stock Theft Act (Act 57 of 1959) and the Animal Identification Act (Act 6 of 2002) were promulgated. Both acts are still in force. The acts deal with two specific aspects of the marketing of livestock, namely the buying and selling, as well as the transport of animals – these are discussed briefly in this chapter.

Anyone trading in livestock has to be familiar with all relevant legislation. This chapter deals with the main points of the legislation only and should not be regarded as comprehensive.

2.1 SALE AND RESALE OF LIVESTOCK



Identification of animals

(section 6)

The stipulations of section 6 of the Stock Theft Act and section 7(2) of the Animal Identification Act (see Chapter 1, p. 15) refer. The stipulations of these two sections should be read together as they complement each other in any buying and selling transaction.

Section 6(1) of the Stock Theft Act:

Any person (including any auctioneer, agent or market master who sells, barterers, gives or in any other manner disposes of any stock to any other person) shall at the time of delivery to such other person of the stock so sold, bartered, given or disposed of, furnish such other person with a document (hereinafter called a document of identification).



- Section 6 regulates the document of identification that must be furnished by the seller.
- Most transactions take place at livestock auctions, but the section is also applicable when animals are sold out of hand.
- No person is excluded from the stipulations of the two acts. Everyone is included – auctioneers, agents, feedlot staff and the market master.

Requirements that documents of identification have to comply with [section 6(1)(a)]

Documents of identification must contain the following information:

- Full name and address of the stock owner.
- If stock is sold, bartered, given or disposed of on behalf of another person, the name and address of that person must be provided.
- Full name and address of the person to whom the stock was sold, bartered, given or disposed of.
- Date on which the stock was sold, bartered, given or disposed of.

- Certification that such stock is the person's own property or that he is duly authorised by the owner of the stock to deal with or dispose of it.
- The seller may not allege only verbally to be authorised to trade the stock. Authorisation must be explicit and in writing and must be in the person's possession.
- The date of authorisation must be recent. An outdated authorisation may not be presented.

In terms of the Stock Theft Act, such a document of identification must contain the following details:

- the breed or type of stock
- the number of stock sold
- the brand mark, tattoo or any other identification mark
- the sex, number and colour of the stock in the case of stock not marked in the prescribed manner, or if the mark is not registered according to any legislation.

The concession with regard to unmarked stock is only applicable if the stock concerned does not have to be marked under the Animal Identification Act.



Obligation of the receiver of the stock [section 6(2)]

The person who acquires the stock may not receive the stock without receiving the document of identification at the time of delivery. If a person receives the stock without the document, such a person is guilty of an offence.

Retaining a document of identification

The person to whom a document of identification is issued, must retain such document in his possession for a period of at least one year. If someone requests to see the document during this period of one year, the owner of the document of identification must have it available for inspection or present it to the person requesting to see it.

Who has liability?

Stock Theft Act, section 6:

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

Any person who delivers livestock to an auctioneer to sell or trade otherwise, must furnish such auctioneer, agent or market master with a document of identification. This means that the ownership is indirectly transferred to the auctioneer, agent or market master; as such the auctioneer, agent or market master is then responsible for issuing a document of identification to the new owner.

Offences in terms of section 6

Any person who contravenes a stipulation in the Stock Theft Act, fails to make the document available on request, or purposely provides false information in the document of identification, is guilty of an offence.

To demonstrate the importance of the application of section 6, the following findings are quoted from the case of *Crots v Pretorius* (A61/2008) [2008] ZAFSHC 146 (29 November 2008):

“although the respondent is an experienced stock dealer, he did not comply with any of the regulations of the Stock Theft Act No. 57 of 1959 in respect of prescribed documents for a stock transaction:

“he accepted delivery of the stock he bought, without having received a document of identification issued by the owner of the stock and in which the identity of the owner of the stock, the animals, the buyer, and details of the stock transaction are mentioned; thus he contravened the regulations of section 6(2), read together with section 6(1) of the Stock Theft Act;

“he sold and delivered the stock to Country Meat Abattoirs, and had the animals slaughtered without furnishing a document of identification at the time of delivery of the stock and thus contravened the regulations of section 6(1) of the Stock Theft Act.”

Resale of stock

Animal Identification Act, section 7(2):



No person may –

- (a) within 14 days of the date on which he or she becomes the owner of an animal with an identification mark, sell, barter, give away or in any other manner dispose of that animal to another person, unless he or she furnishes a document of identification to the person who acquires that animal; or
- (b) after 14 days of the date on which he or she becomes the owner of an animal, sell, barter, give away or in any other manner dispose of that animal unless –
 - (i) such animal has been marked in the prescribed manner with the identification mark of the owner disposing of that animal; and
 - (ii) he or she furnishes the person acquiring that animal with a document of identification.

- Any owner of an animal with an identification mark wanting to sell, barter or give away the animal within 14 days of the date on which the person became the owner, must furnish the new owner with a document of identification.
- This means that the animal can be disposed of within 14 days without having been marked with the new owner's mark, because it already has the previous owner's mark and a document of identification has been issued.
- Any person wanting to sell, barter or give away an animal 14 days after the date on which this person became the owner of such animal, must put their own mark on the animal before they dispose of it.
- The owner must also furnish the new owner with a document of identification, which the new owner must keep for a period of one year.

- Such animal cannot be disposed of after 14 days without the new owner's identification mark on the animal and without an identification document.

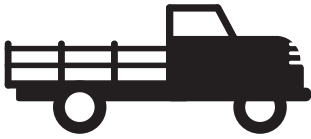
2.2 FROM WHOM MAY STOCK BE ACQUIRED?



Stock Theft Act, section 7:

Acquisition of stock or produce from persons whose places of residence are unknown. Any person who in any manner (otherwise than at a public sale) acquires or receives into his possession, or any auctioneer, agent or market master who receives into his possession for the purpose of sale, from any person who has no known place of residence, any stock or produce without obtaining at the time of delivery of such stock or produce to him a certificate, issued not more than thirty days before the delivery giving a description of the stock or produce and certifying that to the best of his or their knowledge and belief such person is entitled to dispose of or deal with such stock or produce, shall be guilty of an offence.

- This section of the Stock Theft Act makes it clear that if stock is traded in any way, the buyer must ensure that the residential address of the seller is known.
- The stipulation is not applicable if stock is acquired at a public auction. The reason for this stipulation is that the auctioneer or agent should already have ensured that proof of the person's residential address has been furnished.
- The section explains all the requirements this proof of address needs to comply with, also in the case of persons who live in communal areas.



2.3 REMOVAL CERTIFICATE

Section 8 regulates the driving, conveying or transporting of stock or produce on or along public roads.

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

No person shall drive, convey or transport any stock or produce that does not belong to them, on or along any public road, without a removal certificate issued to them by the owner of the stock or produce or the duly authorised agent of the owner.

Stock owner

Owner also means a person who acquired stock or produce through a sales agreement, but who does not become the owner of such stock or produce just because it was delivered to them.

Requirements of removal certificates [section 8(1)(c)]

The removal certificate must contain the following information:

- name and address of the person who issued the certificate
- name and address of the owner of such stock or produce

- the place from where and the place to which such stock or produce is being driven, conveyed or transported
- name of the driver, conveyer or transporter
- date of issue of the certificate and if applicable, the registration number, model and make of the vehicle with which the stock or produce is being conveyed or transported.

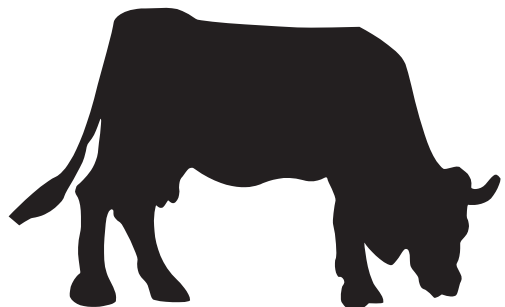
In accordance with the Stock Theft Act such a removal certificate must in practice contain the following information of the stock:

- the breed or type of stock
- the number traded and the brand, tattoo or any other identification mark
- the sex, number and colour of the stock if it is not marked in the prescribed manner or the mark is not registered under any law.

Example of removal certificate on p. 30.

Exemptions

The stipulations are not applicable to stock or produce driven, conveyed or transported with the permission of the owner thereof or a duly authorised agent on or along part of a public road going through land belonging to the owner or agent or occupied by such person.





An owner of stock or produce may not permit another person to drive or convey stock or produce on or along a public road without furnishing such a person with a removal certificate.

Retaining and releasing of removal certificate

The person to whom a removal certificate has been issued, must retain such document for a period of at least one year. The person in possession of such a document must, within the one-year period, make it available or present it to a person requesting to see it.

Offences in terms of section 8

A person driving or conveying stock without a removal certificate, as well as the owner permitting it, commits an offence.

Any person contravening a stipulation of the Act, failing to make the removal

certificate available on request, purposely providing false information in the removal certificate or falsely claiming to be the owner of stock or produce being driven, conveyed or transported on or along a public road, is guilty of an offence.



SUMMARY

The stipulations of sections 6 and 8 of the Stock Theft Act have a specific purpose in the red meat industry, namely to decrease and minimise stock theft. The Act is, however, not limited to these two sections and producers are advised to study the whole Act, including the sections dealing with aspects such as trespassing.

Removal certificate (example)

Serial No

STOCK REMOVAL CERTIFICATE
Section 8 of the Stock Theft Act, No. 57 of 1959

A Full name and address of owner

B If applicable: Full name and address of person duly authorised by owner

C Full name and address of driver, conveyer or transporter

D If applicable: The registration number, model and make of the vehicle used to convey or transport the stock or produce

E The stock or produce is conveyed, driven or transported from (full address) to (full address)

Details of stock:

Column 1	Column 2	Column 3	Column 4	
Breed or type	Number	Brand mark, tattoo or other identification mark (if any)	If the stock is not marked as indicated in Column 3 or if such marks are not registered under any law	
			Sex and number of each sex	

(NB: Column 4 is only applicable in cases where it is not necessary to mark the relevant stock according to the stipulations of the Animal Identification Act, Act 6 of 2002.)

I certify that the stock is the property of A referred to above.

Date of issue of this certificate

Date of delivery at address referred to in paragraph E


Signature of person issuing the certificate, i.e. A or B

[] Initials and surname

No person may drive, convey or transport on or along a public road the above-mentioned stock or produce of which they are not the owner without this certificate.

This document must be kept in possession by the person conveying or driving the stock for a period of one year, as mentioned in paragraph C (Section 8(6) of Act 57 of 1959).





*Report all cases
of stock theft
immediately to
the SAPS*

CHAPTER 3 WHEN STOCK THEFT OCCURS

03

When stock owners become victims of stock theft they can play an active role in the prevention of further thefts by assisting the local SAPS and stock theft unit during the investigation. Many stock theft cases are not resolved satisfactorily owing to inadequate evidence and proof or incomplete statements. It often happens that stolen animals cannot be identified positively and the owner concerned cannot prove ownership.

3.1 RETAINING OF THE SCENE AND EVIDENCE

The scene of the crime is a valuable source of evidence and stock owners must know how to handle this scene and the evidence contained therein.

Evidence may include the following:

- carcasses
- vehicles
- firearms
- sources of DNA such as blood, bloodstains, hair, meat or other tissue
 - fingerprints
 - footprints
- equipment used during theft
 - clothes.



When a farmer realises that he was the victim of stock theft, the stock theft unit suggests the following:

- Secure the crime scene immediately.
- Do not shift or remove anything from the scene.
- Do not try investigating the crime yourself – important evidence must be left in the kraal until officials from the stock theft unit have arrived and started their investigation. Important clues such as footprints and marks will be destroyed when the animals leave the kraal.
- Footprints found at the crime scene must be protected from rain, wind, animals and people by covering it with a half a steel drum or cardboard box.
- Stock owners must not follow the tracks or send out workers to look for and follow the tracks. Rather leave it to the police and their dogs.
- Cut fences must not be repaired before fence samples have been taken.



- Cut chains and locks must be kept as evidence.
- Slaughtered carcasses must not be removed until the meat has been sampled and the scene photographed.
- If material that possibly belongs to the thief is found at the scene, it must not be touched or removed.
- Unknown objects found at the scene must not be touched or moved until they have been shown to the investigating officer. The forensic laboratory of the SAPS can compare such items with evidence found at other crime scenes or in possession of criminals.
- If a suspect is caught red-handed and makes comments to the owner of the stolen animals that could be a confession, mention this to the investigating officer. Be careful not to contravene section 35 of the Constitution of the Republic of South Africa (Act 108 of 1996) and/or section 39 of the Criminal Procedure Act (Act 51 of 1977) that deals with the arrest.
- Do not assault the suspect. Any wrongful assault will render you liable to possible criminal prosecution.

The investigating officer will take into account factors such as heat, cold, rain, wind and people who trample the scene. As a last resort to preserve evidence, the police can move evidence to a safer place. The original place where it was found must then be recorded clearly.

As many pieces of evidence as possible will be collected and processed by the police. Samples and pieces of evidence in forensic bags will be signed in at the police station for use during the investigation.

3.2 REPORTING OF STOCK THEFT

The time lapse from the discovery to the reporting of stock theft must be as short as possible. This will help to facilitate a satisfactory solution to the case.

Stock owners must report all cases of stock theft to the local police station without delay. The local police station will open a docket, register it on the crime administration system (CAS) and assign a CAS number to the case. The CAS number is then sent to the complainant as a text message. This number must be used in all future references and queries. As soon as

the complaint is registered on the CAS, the local police station must inform the stock theft detective on standby telephonically of the complaint and also provide the contact details of the complainant.

On arrival at the crime scene the investigating officer must first of all secure the scene. The scene must be assessed and all possible evidence such as footprints, fingerprints and blood samples preserved. The police officer will take a statement from the complainant (see 3.4).

The investigating officer will request a detailed description of the stolen stock as well as the relevant identification marks in accordance with the Animal Identification Act. The stock owner must thus ensure all animals are marked and records are up-to-date. Stock owners are often unable to give a full description of missing animals, and in such cases it is difficult for the SAPS to circulate descriptions of stolen animals.

Take note of all details at the crime scene and convey it to the investigating officer. Do not hesitate to provide all information and observations to the police.

The necessity of a comprehensive stock register cannot be overemphasised. Keep a stock register up to date and confirm the numbers regularly. This also holds for workers' animals. A comprehensive stock register serves as proof to the magistrate of the stock owner's control over the stock and his awareness of everything transpiring on the farm.

3.3 USE OF DNA TECHNOLOGY

In 1996 the SAPS and the Animal Genetics Laboratory of the Agricultural Research

Council's (ARC) Animal Production Institute in Irene entered into a partnership to combat the challenge of stock theft with the aid of DNA technology. According to the SAPS, various court cases have been successfully concluded through the use of DNA. In these court cases, which included more than 3 000 pieces of evidence, results of DNA analyses have been used as evidence. Approximately 95% of these cases were solved and the suspects prosecuted.

DNA technology can be used as an important forensic instrument to combat stock theft and is becoming an increasingly important component of the criminal justice system. DNA-based technology is used largely for the determination of identity, ownership, parentage, traceability and the species origin of animal products such as tissue, blood and skin.

Apart from identical twins or clones, no two animals are genetically the same. This means the DNA of an animal is a fingerprint or unique identification. Only small quantities of DNA are needed to confirm the fingerprint of an animal. But how does DNA technology help to combat stock theft?

Hair samples (a source of DNA) are collected from individual animals and





as DNA sampling, preservation, documentation and dispatching of samples to the laboratory.

3.4 COMPLAINANT'S STATEMENT

The first police officer on the scene must compile a scene statement. The complainant's statement must be taken immediately, except if the complainant is injured and needs medical



stored in the laboratory as reference samples. When an animal is injured or slaughtered at a crime scene, or a piece of meat from a stolen animal is found in the possession of a suspect, a tissue sample is taken and compared in the laboratory to the reference samples. If the DNA fingerprint of the reference sample agrees with a sample from the crime scene, the suspect can be connected to the crime scene or the crime itself and the evidence can be used to put the offender behind bars.

Even if there is no reference sample available, conviction is still possible if DNA from blood, bloodstains, meat or other tissue found at the crime scene compares with blood found on the suspect's clothes, tools that were used or meat found in his possession.

The success of the forensic DNA service is dependent on correctly collecting samples at a crime scene, processing and analysing them in the laboratory and reporting the findings. To ensure that each part of the process is handled correctly, the ARC continuously provides training to the SAPS staff. The training focuses on aspects such

treatment. The police can still open a docket, even if the complainant cannot make a statement immediately.

If persons have been arrested, arrest statements must be taken and statements from eyewitnesses must also be taken immediately. All persons have the right to give their statement in their own language and to write it themselves.

- Police officers, however, know what important information is needed in the statement and thus the writing is normally left to them.
- The statement must contain the following: what, where, when, why and who.
- If a person feels that the officer's statement is of a poor quality, he/she may refuse to sign it and ask that a detective or higher ranking officer rather take the statement.
- Persons giving statements must read everything that has been written down and agree with the content of the statement before signing it.
- Try not to give more than one statement. If the two statements do not agree, the person risks a charge of perjury.

Example of a full statement after a stock theft incident.

VERKLARING/STATEMENT

VOLLE VOORNAME/FULL FIRST NAMES:
VAN/SURNAME:
ID NO:
RAS/RACE:
GESLAG/SEX:
OUDERDOM/AGE:
BEROEP/OCCUPATION:
WOONADRES/RESIDENTIAL ADDRESS:
.....
TEL NO:
WERKSADRES/ADDRESS OF EMPLOYER:
TEL NO:

VERKLAAR ONDER EED IN AFRIKAANS/STATE UNDER OATH IN ENGLISH:

-1-

I farm on abovementioned farm. My farm consists of livestock/mixed agriculture, etc. I have a registered stock brand mark and attach a copy of my brand mark. I have/do not have a herder that tends the cattle every day. On Saturday 2014-06-04 at approximately 10:00 I checked my cattle in the veld where they were grazing. I suspected trouble when I noticed that the fence between my land and the bordering Steenbokgat communal land appeared slack.

-2-

I investigated and found that the boundary fence probably had been flattened and that there were tracks of cattle apparently driven from my land to Steenbokgat. I estimate about three (3) cattle. I also noted unfamiliar footprints that looked like a tackie and a gumboot, presumably of the person who drove the cattle. The tracks appeared reasonably fresh.

-3-

I immediately phoned home and asked my wife to contact the local police and inform them of the incident. I noticed that from that point the animals moved in different directions.

-4-

I went back to my farm where I got my workers to round up my cattle in order to determine whether there were animals missing and how many. I used cardboard boxes to cover the unfamiliar foot-prints for the police investigation.

-5-

At approximately 11:30 the police arrived and they were present when I counted the cattle. The details of the members of police present are as follows..... I own seventy (70) breeding cows, twelve (12) heifers, thirteen (13) months of age and twelve (12) suckling calves younger than six (6) months, all of the Simbra breed. I also own two (2) white Brahman bulls. The brand mark on the cattle is LX on the left hind thigh. There are red ear tags in the left ears of all the animals, indicating the birthdate of the animal.

I checked the cattle in the presence of the police against my stock register and found that three (3) cattle are missing: one (1) red cow with an angular white blaze of approximately 20 cm, about three (3) months in calf, and two (2) heifers, approximately thirteen (13) months of age, the one red with a white blaze and white left foreleg and hindleg and the other yellow in colour.

-6-

I am the owner of 96 cattle of which three are now missing. The value of the missing stock is R12 000. I have not sold any stock in the last three (3) months and also have also not given any person permission to remove any of my cattle. On Friday 3 June 2014 at 15:00 I checked my cattle and everything was in order. At this stage I suspect the following person/s (give reasons).

-7-

I request an investigation by the SAPS into the theft of the cattle mentioned.

-8-

In the case that the police arrest any suspect and a conviction follows, I request that under section 300 of the Criminal Procedure Act (Act 51 of 1977), a compensation award be granted to me by the honourable court for the loss in value of the stolen stock.

Ek is vertroud met die inhoud van hierdie verklaring en begryp dit./

I know and understand the contents of this statement.

Ek het geen beswaar teen die aflegging van die voorgeskrewe eed nie./

I have no objection to taking the prescribed oath.

Ek beskou die voorgeskrewe eed as bindend op my gewete./

I consider the prescribed oath to be binding on my conscience.

DATUM/DATE:

TYD/TIME:

PLEK/PLACE:

.....
HANDTEKENING VAN VERKLAARDER/

SIGNATURE OF DEPONENT

Ek sertifiseer dat bostaande verklaring deur my afgeneem is en dat die verklaarder erken dat hy/sy vertroud is met die inhoud van die verklaring en dit begryp./

I certify that the above statement was taken by me and that the deponent has acknowledged that he/she knows and understands the contents of this statement.

Hierdie verklaring is voor my beëdig/bevestig en verklaarder se handtekening/merk/duimafdruk is in my teenwoordigheid daarop aangebring./

This statement was sworn to before me and deponent's signature/mark/thumb-print was placed thereupon in my presence.

te/at: **op/on:** 2014-.....-..... **om/at:** :

KOMMISSARIS VAN EDE/COMMISSIONER OF OATHS

VOLLE NAAM EN VAN: FULL NAME AND SURNAME

ADRES/ADDRESS: SA Police Service, Voortrekker Street, Piet Retief

RANG/RANK:

3.5 ADDITIONAL COMPLAINTS OF ANIMAL CRUELTY

In many stock theft incidents cattle or sheep are killed in extremely cruel ways. This includes cows being slaughtered alive and lambs beaten to death by breaking their heads against rocks or telephone poles.

Victims of such offences may, apart from charges of theft, lay an additional charge of animal cruelty under the Animals Protection Act (Act 71 of 1962).



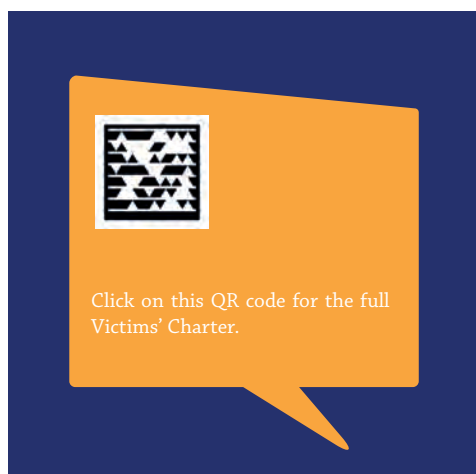
Click on this QR code for the full Animals Protection Act (Act 71 of 1962).

The Act stipulates that it is an offence to:

- neglect, anger or mutilate animals
- keep animals in dirty or parasitic conditions
- fail to render or procure veterinary assistance if needed
- fail to put down an animal if it is suffering unnecessarily
- confine, chain or knee-halter any animal, causing the animal to suffer
- keep an animal in conditions affording inadequate shelter, light or ventilation or expose it to excessive heat, cold, sun, rain and dust or without affording adequate provision of feed or water
- incite or tease an animal or incite it to attack another animal or keep an animal with the purpose of fighting.

A person guilty of such offences can, when convicted, be fined or sentenced to a period of imprisonment not exceeding 12 months, or longer if such a sentence is imposed without the choice of a fine.





3.6 VICTIMS' CHARTER

The Service Charter for Victims of Crime in South Africa (Victims' Charter) strives to obtain justice for all. The Victims' Charter stands in the spirit of the Constitution and the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 (GA/RES/40/34).

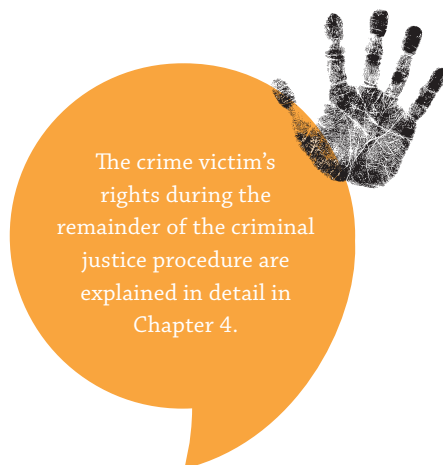
Since 1994, and in keeping with a human rights culture, the focus has gradually shifted from a justice system in which victim and offender were regarded as adversaries and the goal was retribution, to a system of restorative justice. The essence of the concept of restorative justice is the recognition of crime not just as an offence against the State, but also as an unlawful act or injustice done to another person.

The ultimate goal is victim empowerment through meeting the victims' needs, be they material or emotional. The Victims' Charter and the Minimum Standards elaborate on and consolidate the rights and obligations relating to services applicable to victims and survivors of crime in South Africa. This is in accordance with the stipulations of section 234 of the Constitution.

When a crime is committed and reported to the SAPS, it sets the criminal justice system in motion. The SAPS must investigate offences and bring offenders to book. As soon as a complaint has been laid, the police open a dossier and investigate the complaint. If the police are unsure whether to prosecute, a formal complaint would not be brought immediately. The police will first investigate such a case and submit the dossier to the public prosecutor for a decision.

From the moment a crime has been committed and reported, it is important that all available evidence must be collected and protected in such a way that it will assist in the investigation of the case and the ensuing trial. Injuries sustained by the crime victim or damage that he/she suffered, could validate evidence against the accused. A medical report must be compiled and submitted where applicable.

When a person is accused of an offence, the case is referred to the court, where the public prosecutor takes responsibility for the prosecution in the case.





Purpose of minimum standards

The minimum standards for services to victims of crime is an information document that further explains the rights of victims as set out in the Victims' Charter. It provides information on the government's commitment to better service delivery to victims of crime. The standards not only outline basic rights and principles, but also provide detailed information to enable victims of crime to exercise their rights and assist service providers in upholding those rights. The minimum standards help to hold everyone involved in the criminal justice system accountable, ensuring that victims receive appropriate assistance and services.

When a person reports an offence and gives evidence in court, it plays a crucial role to fine-tune the criminal justice system to the needs of society and to ensure that offenders are brought to book. In turn the criminal justice system must react courteously and quickly, treat complainants with respect for their dignity and privacy and satisfy their needs. The minimum standards are an attempt to ensure that this comes to pass, by empowering people and providing adequate information to enable people to exercise their rights.

A victim of crime can thus expect the role players in the criminal justice system to ensure that the rights set out in the Victims' Charter are enforced.

Minimum standards

Minimum standards for services to victims of crime include:

- the right to be treated fairly and with respect for the victim's dignity and privacy
- the right to offer information
- the right to receive information
- the right to protection
- the right to assistance
- the right to compensation
- the right to restoration.

Rights of a victim of crime

Rights of victims of crime, as set out in the Constitution and relevant legislation, must be upheld in their contact with the criminal justice system as follows:

The right to be treated with respect for your dignity and privacy

- You have the right to be attended to promptly and courteously, with respect for your dignity and privacy, by all members of any department, institution, agency or organisation providing a service directly or indirectly to you (hereafter referred to as service providers).
- The police, during investigations, the prosecutors and court officials during preparation for and during the trial proceedings, as well as all other service providers, must take measures to minimise any inconvenience to you by, among others, conducting interviews with you in your preferred language and in private, if necessary.
- These measures will prevent you from being subjected to secondary victimisation.



The right to offer information

- You have the right to offer information during the criminal investigation and trial.
- The police, prosecutor and correctional

services official must take measures to ensure that any contribution that you wish to make to the investigation, prosecution and parole hearing, is heard and considered when deciding on whether to proceed with the investigation, or in the course of the prosecution or parole board hearing.

- This right means that you can participate (if necessary and where possible) in criminal justice proceedings, by attending the bail hearing, the trial, sentencing proceedings and/or parole board hearing.
- This means that you will have the opportunity to make a further statement to the police if you realise that your first statement is incomplete; you may also, where appropriate, make a statement to the court or give evidence during the sentencing proceedings to bring the seriousness of the crime to the court's attention.
- Furthermore, you may make a written application to the chairperson of the parole board to attend the parole hearing and submit written input.

The right to receive information

- You have the right to be informed of your rights and of how to exercise them.
- You can, as part of this right, ask for



explanations in your own language of anything you do not understand.

- You have the right to receive information and to be informed of all relevant services available to you by service providers.
- You will be informed of your role in the case and of the approximate duration of the case. You can request information regarding court dates, witness fees and the witness protection programme.
- You can request to be informed of the status of the case, whether or not the offender has been arrested, charged, granted bail, indicted, convicted, or sentenced.
- You may request reasons for a decision that has been taken in your case on whether or not to prosecute.
- You are entitled to receive documents that the law entitles you to have access to.
- You can request to receive notification of proceedings which you may attend.
- You can request the prosecutor to notify your employer of any proceedings which necessitate your absence from work.

The right to protection

- You have the right to be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse. If you are a witness, you must report any such threats to the police or senior state prosecutor.
- The police will, if you comply with certain requirements, apply for you to be placed in a witness protection programme.
- If such an application is successful, you will be placed in a witness protection programme where you will be protected, as far as possible, from all forms of undue influence, harassment or intimidation.
- This will ensure your safety as a witness and the availability of your testimony, and prevent you from withdrawing from giving evidence as a result of undue influence.
- This right includes that in certain circumstances the court may prohibit the publi-

cation of any information (including your identity), or it may order that the trial be held behind closed doors (in camera).

- You may request Correctional Services to inform you if the offender has escaped or has been transferred.

The right to assistance

- You have the right to request assistance and, where relevant, have access to available social, health and counselling services, as well as legal assistance which is responsive to your needs.
- The police must assist you by explaining police procedures, informing you of your rights and making the appropriate referral to other relevant service providers.
- The office manager or head of office at the court must provide for the services of an interpreter.
- The prosecutor will ensure that special measures are employed in relation to sexual offences, domestic violence and child support or maintenance matters and that, where available, such cases are heard in specialised courts.
- If you have special needs, all service providers will, within the scope of their functions, take all reasonable steps to accommodate you and ensure that you are treated in a sensitive manner.

Other rights, including the right to compensation and the right to restitution, are discussed in Chapter 4, which focuses on court procedure.

3.7 UNSATISFACTORY INVESTIGATION

All the departments, institutions and agencies involved in the case, attempt to provide a high standard of service, but sometimes things can



go wrong. When that happens, the departments, institutions and agencies want to know what has happened.

Certain steps can be taken if, during the investigation into the stock theft incident, you are dissatisfied with the SAPS about

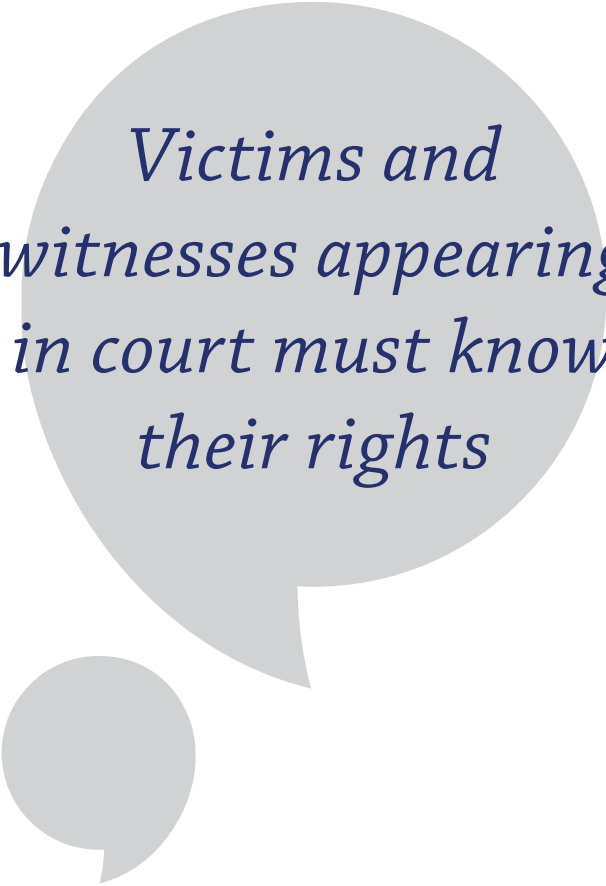
- the manner in which you were treated
- the information you have received
- the decisions that were taken.

Submit a complaint about a police official, or police policy, practice or procedure by writing to the station commissioner.

If the complaint relates to property that went missing or was damaged while in possession of the police, compensation can be claimed. Direct any queries to the station commissioner.

If the problem is not resolved satisfactorily, also approach the area commissioner of the police station concerned with details of the claim. If the complaint still is not dealt with in a satisfactory manner, contact the office of the Public Protector (see Chapter 6 for contact details).

If the complaint is still not dealt with satisfactorily, approach the Independent Complaints Directorate (see Chapter 6 for contact details), but note that this office may only be approached about complaints relating to alleged criminal behaviour or misbehaviour by members of the Metro Police Service and members of the SAPS who fail to do their duty.



*Victims and
witnesses appearing
in court must know
their rights*

CHAPTER 4

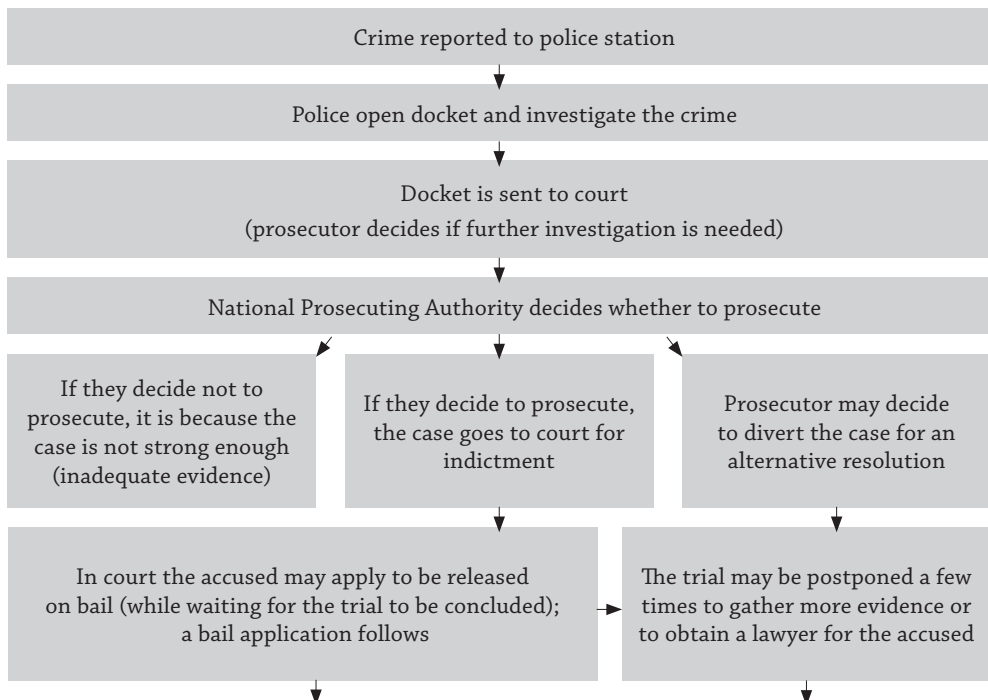
THE CRIMINAL JUSTICE SYSTEM

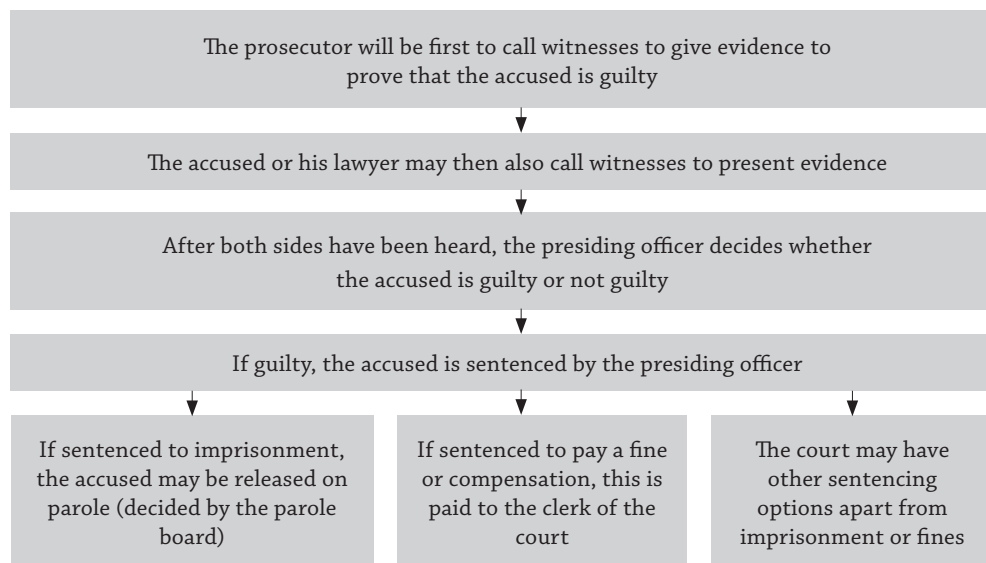
04

The law of criminal procedure is a set of rules and procedures regulating the whole process of criminal prosecution. It regulates, among others, arrest, bail, the trial, sentence and appeal. The main source of the South African law of criminal procedure is the Criminal Procedure Act, Act 51 of 1977.

The Constitution also contains important principles of the criminal procedure, specifically in the Bill of Rights. Entrenched in the Bill of Rights is, for example, every accused person's right to a fair trial.

4.1 STEPS IN THE CRIMINAL JUSTICE SYSTEM





Source: *Understanding the Criminal Justice System*, National Prosecuting Authority, 2008.

4.2 RIGHTS OF VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

The Victims' Charter, with the goal of empowering victims by providing in their needs, be it material or emotional, is discussed in Chapter 3. In this chapter, the focus is on the rights and obligations with respect to services to victims of crime after the case has been referred to the court.

If you are a victim of crime, you have certain rights, as contained in the Victims' Charter. The prosecutor must:

- treat you fairly and with respect to protect your dignity and privacy
- provide information
- receive information
- protect you
- assist you.

You have the right to ask why the prosecutor made certain decisions. You may also complain if you feel your rights are not being respected (see 4.6). When a person



is accused the case is referred to the court, where the prosecutor accepts responsibility for the prosecution in the case. The prosecutor will weigh up the facts of each case thoroughly. The prosecutor can do one of three things:

- decide that there is sufficient evidence to prosecute and then proceed with prosecution



- decide that more information is needed to make an informed judgement and therefore instruct the investigating officer to investigate the case further
- for various reasons, such as public interest, decide to withdraw the charge.

The prosecutor will take the victim's interest into consideration with any of these decisions and could also decide to change the charges, depending on the facts of the case. Unless the complainant proves "guilt beyond reasonable doubt", the accused may be dismissed.

You may expect a speedy and efficient process, which will ensure that the case will get to court as soon as possible. You can expect the prosecutor to request all information related to the bail proceedings from the investigating officer and present it to the court. This is done in order to ensure that the decision to grant or refuse bail to the accused is taken with the victim's best interests and protection in mind.

Before the prosecutor accepts a plea of guilt, he will take the victim's interests, as well as those of his or her family, into consideration.

4.3 APPEARING IN COURT

To be a witness requires courage. It will help the police and the prosecution to ensure

that justice is done. The police will inform you in writing to appear in court. Most cases are dealt with in the magistrate's courts, but more serious offences are referred to the regional court or high court.

If you do not know where the trial will take place, enquire at the help desk, or information or advice counter to find out in which courtroom the proceedings will take place. It is an offence not to respond to the witness summons and may lead to arrest.

If you have questions or information, pass them on to the prosecutor before you have to testify in court. On the day of the trial there may not be time to do so.

Let the prosecutor know when you arrive at the court. You may at any time request to reread your statement before you have to give testimony. Stay in court until you have testified or are excused. Do not leave the courtroom without permission from the presiding officer. The prosecutor will assist you to get permission.

A witness is not allowed in the courtroom until called to testify. If someone attempts to discuss the case with you, convey that to the investigating officer. Do not discuss the case with anybody, except the prosecutor or medical doctor or psychologist assisting with the case. After you have testified, you are free to attend the remainder of the proceedings.

The Act provides for the following when you are giving testimony:

- In certain circumstances you may testify by means of closed-circuit television (this means the witness is not in the courtroom in the presence of the accused, but in another room).
- If the witness is under the age of 18 years and if the presiding officer (the magistrate or judge) is of the opinion that the witness will experience unreasonable emotional stress or suffering by testifying during the trial, the witness may be assisted by a

mediator and testify by means of closed-circuit television.

- Under certain circumstances proceedings may take place in camera (behind closed doors).

Threats and intimidation

It is illegal to threaten or scare anybody. If this happens to you, tell the investigating officer or prosecutor. It is also illegal for someone, including family members, to force or persuade you not to testify.

Expenses

Certain expenses may be claimed back, for example travelling expenses. Ask the prosecutor to complete a form after you have testified.

In the witness box

To testify in court for the first time may be an unpleasant experience and preparation is essential. There are a few basic tips that you could apply to be better prepared when standing in the witness box:

- When you take the oath, look at the presiding officer and say in a clear voice, "So help me God." Instead of saying this, you could also say "I will tell the truth, the whole truth and nothing but the truth." This is called an affirmation.
- You are expected to stand up while testifying, but you can ask to sit down. Speak clearly and loudly.
- Listen carefully to the question. Make sure you understand it or ask for it to be explained. Look at the person when you answer, and only answer the question that you are asked.
- Do not shake your head to indicate a "yes" or "no" answer. Use words to answer every question.



- If the prosecutor or lawyer objects, stop talking. Wait for the presiding officer to decide on the objection, and continue when told to do so.
- If you do not want to answer a question, do not ask the presiding officer whether you must answer it. If it is an improper question, the prosecutor will object. If he or she does not object, you must answer the question or the court will stop the lawyer.
- Do not get involved in an argument or allow yourself to become angry. This will not help you.
- If you make a mistake, admit it. Nobody is going to hold it against you, but they will if they think you are lying.
- Know your facts, but do not recite your testimony as if you memorised it, because you may get confused when questions are asked in a different order.
- You are allowed to say "I do not remember" if you have forgotten some details.
- If a question is repeated, give the same answer as before.
- Most important of all, you have taken an oath or made an affirmation to tell the truth. If you are caught lying, you may be prosecuted. It also makes your whole testimony suspect and could allow a criminal to be acquitted.



What happens in court?

The following people will be in court:

presiding officer, assessor, witness, clerk of the court, court orderly, prosecutor, lawyer, interpreter, accused, members of the public.

1. Bail

When an arrested person is brought to court for the first time, the presiding officer has to decide whether to release him or her on bail. If the victim of the crime is afraid of the accused being released on bail, he or she must give reasons to the prosecutor or investigating officer.

In a stock theft case the victim may be assisted by persons from organised agriculture.

If the accused has been released on bail and contacts the victim in any way, the victim must inform the prosecutor or investigating officer.

During the bail hearing the magistrate may want to hear more evidence. The court must decide whether bail will be granted.

2. Pleading

At the beginning of a trial the prosecutor informs the accused of the details of the charge. The accused responds by pleading guilty or not guilty to the charge. If the accused pleads not guilty, the case goes to trial.

3. The State's case

During the trial, the prosecutor calls the witness to give evidence. The prosecutor leads the witness so that he or she does not leave out anything important. A witness can be one of the following:

- the victim



- anyone else who knows what happened or who knows something about the crime
- the police officer, forensic expert or other experts.

4. Cross examination

After each witness has testified, the accused or his lawyer may question the witness. This is to test whether the witness's evidence is correct. It also gives the accused or his or her lawyer the opportunity of giving his or her version of the events to the witness.

The lawyer of the accused may also question you. He or she protects the rights of the accused.

The lawyer may seem unfriendly towards you and ask difficult questions. Try to stay calm and tell the truth, even if this means repeating yourself (see p. 47 for tips on how to behave as a witness).

5. The accused's case

After the State's case, the accused or his or her lawyer may request the court to discharge the accused. This happens if they feel that the prosecutor did not prove the case against the accused.

The presiding officer decides whether to discharge the accused or proceed with the case. If the accused is not discharged, the trial continues.

The lawyer presents evidence and calls witnesses, which may include the accused. The defence counsel will try to prove his client's innocence by creating flaws in the State's (prosecutor's) case. They are trying to prove that the State's allegations are not true or are insufficient for the court to find the accused guilty.

The prosecutor may now question any of the defence witnesses. This includes the accused.

6. Closing arguments

In the closing argument, the prosecutor will summarise and argue the case. He or she gives reasons why the accused should be found guilty. The accused or his lawyer is also given an opportunity to persuade the court to find the accused not guilty.

7. Judgement

The court decides whether the accused is guilty. If the accused is found guilty, the prosecutor has proved his guilt “beyond reasonable doubt”.

If the accused is found not guilty, it is because the presiding officer found insufficient evidence to find the accused guilty. If there is doubt, the court has to acquit the accused, which means he or she goes free.

8. The sentence

When the accused has been found guilty, the presiding officer must decide on an appropriate punishment. Both the prosecutor and the defence may call witnesses at this stage.

The prosecutor may talk about how bad the crime was, how it affected the community and the victim, and may even call witnesses.

The prosecutor may also request that the complainant be compensated if he or she suffered any loss as a result of the crime. The complainant must request the prosecutor to apply for a compensation order before the accused is sentenced (see 4.5 for more information on compensation orders).

If you are of the opinion that the sentence is too lenient, you may discuss it with the senior or chief prosecutor, who can decide to bring it to the attention of the relevant

director of Public Prosecution. The director of Public Prosecution may appeal against the sentence. The appeal must be lodged within a fixed period of time.

An accused may appeal against a conviction or a sentence imposed by the court. If an appeal is lodged, the prosecutor in the original case or the state advocate who handles the appeal may request to be informed of further developments in the case, for instance the date set for the appeal trial, whether the accused has been granted bail and the outcome of the appeal.

If there is concern about the safety of the victim or a state witness, the police, prosecutor or a representative of the witness protection unit will be able to advise the victim on possible options for protection.





4.4 POSTPONEMENT OF TRIAL

There are a number of reasons for a court case to be postponed. The case may be postponed for:

- the accused to obtain legal representation or legal aid
- further investigation
- a bail application
- witnesses to appear in court
- the legal representative, in the case that the legal representative is not available on the court date
- a trial.

If the defence lawyer wants to postpone the trial, the prosecutor is approached to arrange for a postponement date. If the state prosecutor has no objection against the postponement, a date will be mutually agreed upon and conveyed to the court when to call the case.

However, if the prosecutor refuses the postponement, application may be made to the court for the postponement. The lawyer will have to provide reasons to the court why postponement should be granted.

In such an application the court must take into consideration the accused's right

to a speedy trial. This application may also be brought by the State in case the State wants to postpone the case and the defence refuses.

If postponement is granted, it also may be recorded in the docket as a final postponement. This means that on the next court date no further ap-

plication may be made for postponement, and that a trial date has to be set. If the case is still not ready for trial at the next court date, the defence may apply to have the case withdrawn temporarily until the investigation has been completed. The defence may, however, only bring such an application if it was the State that requested the postponement previously.

4.5 COMPENSATION

In accordance with the minimum standards for services for victims of crime, victims also have the right to compensation and the right to restitution. See Chapter 3 for more information on minimum standards.

The right to compensation

- You have the right to compensation for the loss of or damage to property as a result of crime committed against you.
- You may request to be present in court on the date of sentencing and request the prosecutor to apply to the court for a compensation order, in pursuance of section 297 and 300 of the Criminal Procedure Act, 1977 (Act 51 of 1977).
- "Compensation" refers to an amount of

money that a criminal court awards the victim who suffered a loss or damage to property, including money, as a result of a criminal act or omission by the accused.

- The prosecutor will inform you if a compensation order was awarded, explain the content thereof and how to enforce it. You may also institute civil action against the accused if the criminal court does not award a compensation order. This normally happens when the damage cannot be determined easily, such as psychological scars or pain and suffering.
- The clerk of the court will assist you with the enforcement of a compensation order awarded by the court.

The right to restitution

- You have the right to restitution if you have been unlawfully dispossessed of your goods or property or if your goods or property have been unlawfully damaged.
- “Restitution” refers to cases where the court, after a conviction, orders the accused to return the property or goods that have been taken from you unlawfully, or repair the property or goods that have been damaged unlawfully, in order to restore the position you were in before the crime had been committed.
- The prosecutor will inform you what restitution involves and the clerk of the court will assist you in exercising this right.

Compensation orders

The Criminal Procedure Act provides for compensation. A superior court, regional court or district court may in the case of a conviction of an offence that resulted in damage or loss of property, award a compensation order to the complainant or aggrieved party.

Under the Criminal Procedure Act there are two clear stipulations applicable in cases of compensation, namely section 297 (1)(a) (i)(aa) and section 300. Both have the same goal, namely to compensate the victim of the crime. However, the application and awarding of these two stipulations are different. In both instances it is left to the discretion of the court to decide whether they will be awarded.



Criminal Procedure Act, section 297

Section 297 deals with court sentences and provides that the court may postpone or suspend a sentence conditionally or unconditionally, and warn or reprimand someone. Where a court finds someone guilty of an offence other than an offence with respect to which a law prescribes a minimum sentence, the court may at its discretion suspend sentence for a period not exceeding five years and release the person on one or more conditions. Conditions include compensation or the provision to the aggrieved person of a particular benefit or service instead of compensation owing to damage or financial loss.

With respect to this section, the decision is solely at the discretion of the court and the stipulations of section 300 do not apply, namely that the victim has to apply for it. The amounts prescribed in the case of section 300 are also not applicable in this case.

The principles mentioned here remain applicable, namely that the person must have the necessary funds to pay the compensation. The superior courts have long since established their authority to indicate that this type of compensation should be considered where a person receives a suspended sentence and the accused is able to work and pay off the compensation.

There are many judgements with examples of section 297 and it is important to note that in most cases the compensation is paid off by the accused and that interest does not apply.

Criminal Procedure Act, section 300

An application for compensation may be brought when livestock or other movable property belonging to the complainant or aggrieved party has been stolen.



Such application may also be brought when an accused has damaged property (movable or immovable) that belongs to the complainant or aggrieved party.

The judicature of a compensation order is that the accused is ordered by the court to compensate the complainant or aggrieved party for the damage or loss of property. However, a few aspects warrant special mention:

- The complainant or aggrieved party must have concrete (preferably written) proof that confirms the damage or loss of property.

An application for compensation may be brought when livestock or other movable property belonging to the complainant or aggrieved party has been stolen.

- The application must be brought after conviction, by the complainant or aggrieved party or a state prosecutor on instruction of the complainant or aggrieved party. Here it is suggested that the complainant or aggrieved party should mention it beforehand in his or her statement to the SAPS that he or she wants to apply for a compensation order.
- In practice the complainant or aggrieved party may already testify during his or her testimony in court that such an order is requested.
- It is also wise to mention in the statement made by the victim that compensation is required.
- In case it has not been done in the statement, the prosecutor must call the complainant or aggrieved party before sentence to testify to this.
- Conversely, the prosecutor may inform the court that on instruction from the complainant or aggrieved party, he wants to apply for a compensation order.
- However, when an accused pleads guilty to the charge, the complainant or aggrieved party must inform the prosecutor pertinently that he or she wants to testify



about the awarding of a compensation order before sentencing.

- The regional court can award a maximum amount of R1 000 000 as compensation and the district court R300 000, as prescribed in Government Gazette no. 36111 of 30 January 2013.
- The awarding of a compensation order is at the discretion of the court and is not subject to appeal or revision. However, if the court refuses such an order, it must provide reasons. The complainant or aggrieved party must abide by the decision of the court, but still has the right to recover the damage or loss from the accused in a civil action.
- It stands to reason that the court will not issue a compensation order in the event that the accused does not have any funds to pay compensation or is not capable of generating the funds.

4.6 PAROLE BOARDS

A victim of stock theft has the right to be present at the parole board session when the possible release of an offender is considered.

The Department of Correctional Services has developed procedures to facilitate and encourage the involvement of victims at the parole board session when the possible release of offenders is considered.

A victim may either attend a parole board session when possible placing of an offender on parole or under correctional supervision is considered, or request that the parole board consider a written representation. The

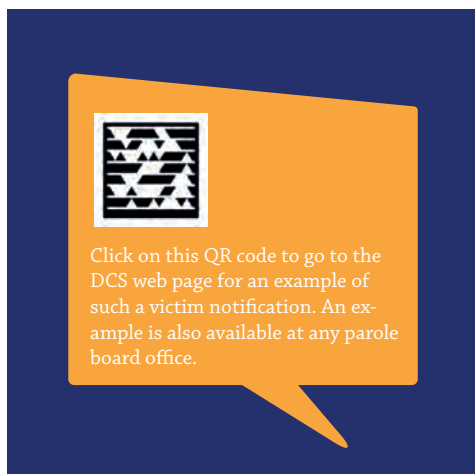
board may consider tape recordings and other forms of representation.

A victim may also request to be informed about the development programmes the offender has undergone or is still undergoing to improve his or her behaviour. Such a request may only be granted if the offender gave written consent in this regard.

If victims want to be involved in the parole board session, the particular parole board must be notified in writing. The victim's request will be recorded and he or she will be informed regarding the process and any decision of the parole board to release the offender. He or she will also be informed in the event that the offender has escaped, died, or been transferred, or if parole is withdrawn after release.

A victim must provide the following information to the relevant parole board in writing:

- the name of the offender
- the crime committed
- the case number
- the date and name of the court where the offender has been sentenced
- the full name and ID number of the victim and his or her postal address.



Victims must inform the parole board of a change of address.

All reasonable steps are taken to ensure that the contact details of victims are kept confidential and not disclosed to offenders.

In the normal course of events and to comply with the principle of *audi alteram partem* (to hear the other person's viewpoint), the offender will be present when the victim's representation is made. Nevertheless, if a victim makes a personal representation during the parole board session, the chairperson will take all possible steps to ensure that the victim is protected from the offender and that no victimisation takes place during the session.

In certain circumstances, such as when children or vulnerable victims are involved, arrangements will be made so that the offender need not be seen. If victims have any concerns in this regard, they must discuss the matter with the parole board, who will address their needs, fears and concerns.

Victims may be accompanied by any person of their choice to provide moral support. In a case of stock theft the victim may be supported by persons from

organised agriculture. However, the parole board must be notified of the identity of the supporter, to arrange with the security personnel to facilitate access to the correctional centre.

When the possible release on parole of an offender is considered, various factors are taken into account, including, among others:

- the offender's response to development and treatment programmes associated with rehabilitation
- the existence and quality of support systems in the community
- the probability of recurrent offences
- the risk such an offender may pose to the community at large, together with the risk to the complainant.

The combination of all these factors will influence the parole board's decision and it is therefore important that complainants get involved in the process. The victim's representation could play an important role in determining parole conditions in the event that the offender is placed on parole or under correctional supervision.

However, a victim does not participate in the decision-making process of the parole board. If, during the parole board session, it appears that no reconciliation has taken place between victim and offender, the parole board will consider postponing a decision on the release of the offender, with a view to possible mediation.

Victims who made representations or requested to be informed about parole decisions will be notified in writing of the parole board's decision. Those present at the parole board session will be informed verbally of the decision during the session.

If the victim is dissatisfied with the decision by the parole board and is of

the opinion that the parole board made a mistake, he or she may write to the national commissioner or relevant area commissioner and provide reasons for his or her opinion. Representation will be considered with all the relevant facts, after which the victim will be informed of the outcome.

A victim may contact the parole board at the correctional centre nearest to the court where the offender was sentenced. Contact details can also be obtained from any correctional institution, including community correctional offices or the local telephone directory. Address information is also available on the web page of the Department of Correctional Services at www.dcs.gov.za. (see Chapter 6 for contact details).

In the event that the accused, after release on parole, acts in a way suggesting that he or she may pose a risk to public security, or

contravenes any parole conditions, he or she can be arrested to serve the remainder of the sentence in prison.

4.7 COMPLAINTS MECHANISMS

All the departments, institutions and agencies involved in the case strive to provide a service of high standard, but sometimes things can go wrong.

Certain steps can be followed if you are dissatisfied during the criminal procedure with the prosecutors or courts about

- the manner in which you were treated
- the information you received
- decisions taken.

Prosecutors

The court that handled the case can resolve most complaints. If you have a complaint, contact the



senior state prosecutor at the relevant court. If the local prosecutor's office does not attend to the complaint as expected, contact the chief prosecutor in the area. If the complaint is still not handled satisfactorily, approach the national director of Public Prosecution (contact details in Chapter 6).

If the complaint is still not handled satisfactorily, approach the Office of the Public Protector (contact details in Chapter 6).

However, note that this office may only be approached regarding complaints about administrative actions. By law the Office of the Public Protector may not investigate decisions of the court.

The courts

If the complaint is about the presiding officer, contact the judicial head of the district. The address and telephone number



are available from the local magistrate's office.

If you are dissatisfied with the response from the judicial head, contact the judicial group head of the relevant area.


If the complaint is about a regional court, contact the president of the regional court in the relevant area. The address and telephone number are available from the local magistrate's office.

If the complaint is about a judge of the high court, contact the judge president of the relevant section. The address and telephone number are available from the local magistrate's court or the high court.

If you are dissatisfied with the response, write to the Magistrate's Commission if the complaint is about a magistrate's court or to the Judicial Service Commission if the complaint is about a high court. If the complaint is still not dealt with satisfactorily, approach the Office of the Public Protector.

If the complaint is about court personnel, for example clerks or interpreters, contact the court manager. If you are dissatisfied with the response from the court manager, you could write to the director of court services or the director general of the Department of Justice.





*Count all stock
regularly and
keep a checked
register*

CHAPTER 5

OTHER RELEVANT LEGISLATION

05

The Animal Identification Act and the Stock Theft Act are the two acts generally associated with stock theft. There are other acts that are also contravened when stock is stolen, such as the Fencing Act (Act 31 of 1963) and the Trespass Act (Act 6 of 1959). Farmers must be aware of the content of this legislation and the additional offences under these acts that could be added to the charge sheet of the stock thief.

5.1 POUNDS BILL

Laws governing animal pounds are currently a provincial matter and each province has its own legislation. Because municipalities are directly affected, ordinances in the various provincial and municipal regulations apply.



Click on this QR code for the proposed National Animal Pounds Bill (notice 398 of 2013).

The Department of Agriculture, Forestry and Fisheries (DAFF) published the proposed National Animal Pounds Bill on 18 April 2013 for comments.

The aim of the intended act is to determine national norms and standards for the managing of pound facilities and the impounding of animals. The RPO constituted a working group to comment on the bill. The comments were also provided to affiliates of AgriSA for further consideration. All role players' comments have been passed on to the department for consideration.

Stock from elsewhere

If a landowner finds stock on his farm not belonging to him, the owner of the stock is normally accountable for any damage they cause by grazing there, even if there is no negligence involved. The owner of the stock is accountable, even if the animals gained



access through the negligence of a third party, for instance someone who left the gate to a neighbouring property open.

Such animals may not stay on your land longer than 48 hours after you have noticed them, unless you have sent a written notice to the animals' owner or, if you do not know who the owner is, notified the nearest pound master. You may not sell the animals. If you do that, the owner could claim the value of the animals from you as well as the loss he suffered as a result of the sale. You will also be guilty of an offence.

In the event that you find animals from outside South Africa on your land, you must isolate the animals and notify the state veterinary services, who will instruct you on what to do with the animals.

Anyone who delivers an animal to the pound master is entitled to a fee for driving or conveying the animal, as set out in the provincial ordinances. If one of your workers takes the animal to the pound, send a note with him, with a description of the animal and authorising the worker to hand over the animal to the pound master.

The pound master may recover the prescribed transport costs, pound costs and other expenses to vaccinate, dip or treat the animal before the impounded animal is released.

If the animal is not claimed, the pound master can sell it for cash at a public auction.



Untethered animals

Serious problems are also experienced with untethered animals, particularly on streets and along roads. The biggest concern is the car accidents caused by these animals, which could result in loss of life and extensive damage to vehicles. Sometimes these animals also enter people's properties and damage plants and even vehicles.

The stock theft unit may confiscate these untethered animals and take them to a pound. The owners will have to pay an amount to get the animals back. However, not all towns have pounds.

Stock owners must appoint herdsmen to mind their animals at all times. Severe fines could be issued to guilty owners when untethered animals are identified as their property.

5.2 TRESPASS ACT



Click on this QR code for the complete Trespass Act (Act 6 of 1959).

In terms of the Trespass Act, a trespasser is a person who is present unlawfully and without permission on someone else's land. Such a person is guilty of a criminal offence.

A person who has a lawful reason to be on someone else's land cannot be found guilty of trespassing – even if he or she is there without the permission of the owner. Therefore someone delivering goods, a representative or someone asking for directions cannot be a trespasser. However, the Trespass Act provides for the prosecution to prove that the accused trespassed on the land without permission. The person in the dock must provide a lawful reason for his presence.

Stock owners must ensure that persons charged with stock theft are also charged with unlawful trespassing. The punishment for this offence is a fine not exceeding R2 000 or imprisonment not exceeding two years, or both.

5.3 FENCING ACT



Under the Fencing Act, the following is an offence:

- If a person opens a gate in a fence and leaves it open or unfastened, or if such a person fails to shut and fasten a gate that he found open on passing through (section 22).
- If a person climbs or crawls over or through a fence without permission from the owner or lessee of the land on which such fence or gate is situated (section 23).
- If a person wilfully damages or removes a gate or fence (section 24).

Stock owners must ensure that persons charged with stock theft are also charged with contravention of the Fencing Act. They may be sentenced to a fine not exceeding R50 or imprisonment of three months. A person found guilty of a second or successive offence may be sentenced to imprisonment without the choice of a fine.



5.4 ANIMALS PROTECTION ACT

In many cases of stock theft the animals are maimed or treated cruelly. It is of the utmost importance that stock owners insist that further charges be added to charge sheets in terms of the relevant legislation. See 3.5 for more details.

5.5 FINES ADJUSTMENT ACT

Several of the older sets of legislation's penal clauses with regard to fines sentences have never been revised or adapted to keep track with the current economic climate. Some prescribed fines are totally inappropriate and do not fit the seriousness of the offence. By applying the regulations of the Fines Adjustment Act (Act 101 of 1991), a judge or magistrate may hand down a heavier fine sentence in criminal

cases than for example prescribed by the relevant act under which the accused is being prosecuted.

5.6 ILLEGAL HUNTING WITH DOGS

Illegal hunting with dogs is on the increase. Illegal hunters trespass upon land and damage fences while their dogs attack stock as well as game. Landowners are frustrated because they struggle to have such offenders brought to justice. Landowners and hunters are not familiar with the rights of landowners.

It appears that the police also are not always well informed regarding the legislation. The Fencing Act (Act 31 of 1963) and illegal trespassing are of



particular concern. Because the police do not know the rights of a landowner, they cannot determine whether an offence is committed when people are hunting with dogs without the necessary permission. This is compounded by the fact that prosecutors and magistrates also seem to be unfamiliar with landowners' rights.



Illegal hunts usually take place on private property, specifically when the landowner is away. This could indicate worker involvement. In many instances the veld is burnt beforehand to open it up. When the grass starts growing again, the animals are lured back and are easy prey for hunting dogs.

Landowners who complain or take action against illegal hunters are victimised. Their pasture is also burnt every year so that they have no grazing for their stock. Traditional hunting is allowed when the necessary permission has been granted and is supervised. However, hunters are not allowed to turn up on a farm and hunt for the pot.

The so-called taxi hunts that are carried out on an organised basis are also illegal. In these cases up to 60 dogs are transported by taxis and, together with the hunters, they plunder game and livestock. Gambling is the main motivation behind illegal hunting with dogs. The owner of the dog that brings down the first animal is the winner. The dogs are not selective when they hunt and endangered species are often victims of the hunt.

If a landowner has evidence of illegal hunting on his land, he can have the perpetrators arrested. Owners must get as much evidence as possible, such as photographs and statements of witnesses, to justify the arrests and ensure prosecution. The district conservation officers can also be contacted for help. Where landowners catch hunters in the act, they are often outnumbered and it is unlikely that the landowner will apprehend the hunters. If the police are called, the hunters and their dogs often have fled by the time the police arrive at the scene.

Illegal hunting with dogs amounts to stock theft and poaching, which are regarded as serious offences by the courts. Lay a formal complaint with the SAPS, but get all evidence together to convince the SAPS and the prosecutor to charge.

The legislation applicable to the illegal hunting with dogs is often difficult to interpret. The most important message, though, is that hunting with dogs and trespassing on private land is illegal and that perpetrators can be prosecuted.





*Become
involved in
investigations
to combat
stock theft*

CHAPTER 6

PREVENTION OF STOCK THEFT

06

Stock theft can be controlled in different ways. Stock owners can see to it themselves that the risk of stock theft on their property is reduced. The stock theft prevention forums and information centres also deserve the support of every stock owner.

6.1 SAFETY TIPS

- Check all fences and gates regularly and maintain them to protect stock.
- Appoint a trained worker to patrol the fences daily. He must also ensure that holes in and underneath fences are repaired immediately. Inspect these repairs yourself.
- Always lock up loading ramps in camps or places on the farm where there is no direct supervision, or see to it that they are out of sight.
- If you consider buying an additional farm it is better if it is near the farm you are living on. Remember – stay close to your property if you don't want losses.
- Ensure that stolen stock cannot be hidden on your farm. Cattle posts are an ideal overnight place to hide stolen stock. If you notice strange animals at a cattle post, report it to the SAPS immediately.
- Personally count your stock at cattle posts at least once a week.
- If workers at cattle posts have their own

animals too, it is best to mix the animals and let them graze together. This is a good preventative measure, particularly if you suspect that workers are involved in incidents of stock theft.

- Be particularly alert during the full moon, weekends and the beginning or end of a month, or during times that you know from own experience when stock theft is likely to occur (especially slaughtering for the pot).
- Report strange animals among your own to the SAPS and your neighbours immediately.



- Report all incidents of stock theft on your land immediately. The longer the delay, the smaller the probability of successful prosecution.
- It is important to round up and count animals regularly. If not possible every day, try to do stock counts at least twice a week and do so on random days. Avoid routine, especially at cattle posts, because workers may well be informants to stock thieves. Fewer stock or signs that indicate possible stock theft must be reported immediately. Personally count your own animals. Do not leave the counting or reporting of complaints to workers.
- When new people apply for work, enquire from previous employers about the real reason for termination/desertion of service. Also enquire from the SAPS to determine whether the applicant has a criminal record and if so, the nature of such record.
- Train your workers to watch out for irregularities. Remind workers to be cautious of what they say in front of strangers about activities on the farm. Information may land in the hands of stock thieves in this way.
- Inform the stock theft unit when speculators and buyers of hides and bones or stock traders from neighbouring countries work in the area. Keep a detailed record of all prospective stock traders as soon as they start negotiations.
- An extensive stock register is crucial. Write down as much detail as possible and keep the register updated personally.
- Do not allow loitering on the farm or allow unemployed people to stay on the farm. Strangers on the farm or visitors of workers must get permission first from the farmer. Implement a control system for visitors; note down all details of visitors to the farm, who they are visiting and when they are leaving.
- If your farm is on the country's borders, do not get involved in illegal deals with citizens of neighbouring countries, for example to lease your grazing camps. If you do not follow the correct procedure,





it could create an ideal environment for stock theft and other offences.

- Stock theft cases are often scrapped due to lack of interest; some complainants also do not want to attend the court proceedings. Take an interest in solved cases and attend all court cases.
- Work with the local SAPS and stock theft unit, not against them. Support them in all their efforts to help you.

6.2 STOCK THEFT PREVENTION FORUMS

The RPO founded stock theft prevention forums on national and provincial levels in order to control stock theft. The forums operate according to a reasonably uniform set of house rules.

The main aim of the forums is to form a representative structure in organised agriculture's struggle against stock theft. Members include representatives of the commercial and emerging stock producers' organisations, the SAPS (stock theft units included), Correctional Services, the South African National Defence Force, the National Prosecuting Authority and the Department of Agriculture, Forestry and Fisheries.

Matters related to stock theft are preferably dealt with at provincial level. Provincial

role players are encouraged to find solutions and set up preventative measures to control stock theft effectively. Matters that cannot be resolved at provincial level or matters of national importance are referred to the national forum.

The forums do everything in their power to prevent and control stock theft and related offences. They carry out investigations and act upon the findings. Because food security is so important in the country, the forums support stock owners as far as possible.

Activities of the forums include the following:

- Evaluate existing policy, legislation, strategies and procedures for the controlling and prevention of stock theft and recommend adjustments. They also make recommendations in respect of the application of the law and passing of sentences for stock theft.
- Recommend steps to protect farmers against losses from stock theft, based on the results of preventative and control measures and information on the incidence and trends of stock theft.
- Identify research needs and aspects that should be prioritised. Such research needs are conveyed to recognised institutions such as the Department of Agriculture, Forestry and Fisheries, Animal Research Council, Council for Scientific and Industrial Research, universities and other scientific groups that can do the necessary research.
- Collect reports on research projects, stock theft trends and preventative and control actions and bring them to the attention of the parties concerned.
- Cooperate with any acceptable organisation or body through which the goals of the Stock Theft Prevention Forum and the interests of farmers can be advanced.



The national Stock Theft Prevention Forum recently succeeded in instituting training courses on the control of stock theft for state prosecutors.

Furthermore, several provincial forums participated in the compilation of provincial pounds laws and accompanying regulations. The national forum also makes use of legal experts in the RPO to comment on draft legislation directly relating to the policing, investigation and prosecution of stock theft cases.

There are several issues that have a negative influence on the control of stock theft. Firstly there are still producers, including those in communal areas, who fail to brand or tattoo their stock in accordance to the regulations of the Animal Identification Act (Act 6 of 2002). This negligence on the part of producers hampers the successful criminal prosecution of stock thieves. If the National Prosecuting Authority cannot prove beyond reasonable doubt who the owner of the stock is, the accused must get the benefit of the doubt. Not only will he or she be acquitted of the charge, but the stolen stock probably will have to be returned to the accused. Also, producers often do not keep accurate records of stock numbers and do not check stock numbers regularly.

Internal police instructions stipulate that members of the Community Service Centre (charge office) must deal with the initial notification of the crime. Many policemen are totally ignorant about the preservation of crime scenes and what is required when a stock theft scene is visited. Valuable information and evidence is often lost.

In some instances there are poor trust relationships between producers and stock

theft investigating officers. This is largely owing to a lack of proper communication and is often based on wrong perceptions.

Stock theft prosecutions often fail in court, firstly because some state prosecutors have little or no experience of such cases. Secondly, the rights of victims as entrenched in the Victims' Charter are dismissed by some police officers and state prosecutors.

It is, however, important to realise that although victims of crime have certain rights, they also have certain responsibilities. Just because you have suffered a loss does not give you the right to act disrespectfully. Rather make an effort to build relationships with officials.



6.3 STOCK THEFT INFORMATION CENTRES

It is imperative that stock owners and red meat producers become involved more actively in investigations and controlling stock theft. One of the most effective ways in which producers can ensure a greater say in investigations and successful prosecutions, is by establishing stock theft information centres (STIC) in their districts.

Producers are slow to establish stock theft information centres in their respective magisterial districts. Producers, police officials and state prosecutors can keep in contact informally, communicate better and cooperate through these centres. In this way producers can have a direct say in the investigation and successful prosecution of their stock theft cases.

The overarching aim of such a centre is to form a representative structure of, among others, stock owners in a district. In this way they can join hands to control stock theft by carrying out investigations and sharing findings, and by contacting and negotiating with each other. In doing so the production of red meat and other animal products are safeguarded.

According to national instructions, the commanding officer of a stock theft unit is obligated to establish a STIC in his/her service area in cooperation with the stock owners, if so requested.

The STIC helps to motivate stock owners to get involved in the prevention of stock theft and the tightening of their own security in several ways:

- Collect information on the incidence of stock theft, suspect persons and crime trends in their area and district and pass this on to the SAPS and stock theft units.
- Receive information from the police and stock theft units on stock theft, suspects and crime trends in their area and district.
- Exchange information on suspects, crime trends and the incidence of stock theft with other stock theft

information centres and stock theft units.

- Help to determine ownership of livestock in cases where identification is difficult.
- Control stock theft by keeping in contact with other stock owners and the police, participating in crime prevention patrols and attending meetings about stock theft.
- Point out serious crime trends in respect of stock theft in the community, identify problem areas and areas where stock theft is suspected and help to devise operational plans to control this crime.
- Stay in contact with investigating officials and state prosecutors to correct shortcomings in their reported cases and ensure convictions. State prosecutors can play a leading role by providing training in legislation and court procedures.
- Pay attention to complaints or identified problems received from stock theft information centres, district agricultural unions, farmers' associations, the police or any other business or organisation concerned with trading, slaughtering or transporting of stock and produce. Where necessary the stock theft information centres can help to resolve identified problems or to prevent a recurrence of such problems.



A STIC should consist of the following role players:

- stock owners and producers
- commander of the stock theft unit or an appointed investigating officer for the area or district concerned
- a state prosecutor in the magisterial district where the STIC is situated
- the station commissioner(s)
- any person who can advise the STIC on stock theft issues
- auctioneers and feedlot associations
- representatives of state departments that are co-opted from time to time by the STIC.

Members of farmers' associations and district agricultural unions nominate and elect the chairperson, vice-chairperson and secretary of the STIC. Minutes of meetings must be kept diligently and copies sent to the provincial stock theft prevention forums.

The STIC cooperates closely with the stock theft prevention forum in the relevant province.

Problems and situations that the STIC is unable to deal with successfully should be referred to the provincial stock theft prevention forum in writing, and the STIC should receive feedback.

All information that the STIC receives, should be regarded as confidential. Sensitive information on matters related to stock theft should rather not be mentioned in minutes.



6.4 CONTACT DETAILS

RPO Offices

National office

2 Quinton Brand Street
Eulophia Corner (Unit 22)
PERSEQUOR PARK
PO Box 132 PERSEQUOR PARK 0020
Tel: 012 349 1102/3/6
Fax: 012 349 1054
E-mail: admin@rpo.co.za

Provincial offices

Visit www.rpo.co.za for contact details of provincial RPO offices.

Stock theft prevention forums

Contact the national and provincial RPO offices for contact details of the national and provincial stock theft prevention forums.

Stock Theft Units

Head Office: Stock Theft Unit

SAPS Head Office
Koedoe Building, 236 Pretorius Street,
PRETORIA
Private Bag X94 PRETORIA 0001
Tel: 012 393 1196/9
Fax: 012 393 1548
stuhoops@saps.org.za/stuhoresearch@saps.org.za

Contact details of provincial stock theft units as provided by the head office of the Stock Theft Unit. For any queries contact the head office, see p. 69.

Eastern Cape

Stock theft unit	Telephone	Fax
COORDINATOR	040 608 7393/84	040 608 7490 040 608 8476
ALIWAL NORTH	051 633 2167/8	051 634 1608/29
BARKLY EAST	045 971 0199	045 971 0146
ELLIOT	045 931 1481	045 931 1790
STERKSPRUIT	051 611 9200/41/43	051 611 0034/23
MALUTI	039 256 4686/7	039 256 4686/8 039 256 4690/1
FLAGSTAFF	039 252 0108	039 252 0178
MTHATHA	047 505 5117/5/8	047 505 5116
GRAAFF-REINET	049 807 1134/6	049 891 0145
SOMERSET EAST	042 243 2325	042 243 2772
GRAHAMSTOWN	046 622 8293/4/7	046 622 8309
JEFFREYS BAY	042 200 7000	042 200 7018
UITENHAGE	041 996 3340	086 567 3749 041 996 3353
QUEENSTOWN	045 839 4431	045 839 4433
EAST LONDON	043 707 7300/1	043 731 2410
KING WILLIAM'S TOWN	040 608 2432/4/5	040 635 1794
QUMBU	Wag vir telefoonlyn	040 505 5116
CRADOCK	048 881 3283 048 881 3369 048 801 7309	048 881 1182
BUTTERWORTH	Waiting for telephone lines	
TSOLO	047 542 0003	047 542 0017

Free State

Stock theft unit	Telephone	Fax
COORDINATOR	051 507 6633 051 507 6933/26	051 507 6923 086 648 8181
BETHULIE	051 763 7400/03	051 763 7405/1 051 763 7506/32
WEPENER	051 5831337	051 583 1580
PARKWEG	051 433 1914/6/9	051 433 1920
FOURIESBURG	058 223 7200	058 223 7202
KESTELL	058 653 1235/43	058 653 1276
LADYBRAND	New office – no telephone	051 923 4026 (stasie)
PHUTHADITJHABA	058 718 3100/02	058 718 3105
VREDE	058 913 2392	058 913 2366 086 540 9296
HEILBRON	058 853 5235	058 853 0617
BULTFONTEIN	051 853 1222	
ODENDAALSRUS	057 916 2410	

Gauteng

Stock theft unit	Telephone	Fax
COORDINATOR	016 450 2272/7/8	016 450 2280
CULLINAN	012 734 7100/01	012 734 2107
VEREENIGING	016 450 2279/5/6/7/8 016 450 2272/3/4	016 450 2280

KwaZulu-Natal

Stock theft unit	Telephone	Fax
COORDINATOR	031 325 5940	031 325 4973
BERGVILLE	036 448 9444/3	036 448 9439

Stock theft unit	Telephone	Fax
ESTCOURT	036 342 9537/8	036 342 9539
IMPENDLE	033 702 0604	033 702 0604
PIETERMARITZBURG	033 845 8606/11	033 845 8612
HIMEVILLE	033 701 1178 033 701 1338	033 701 1219
LADYSMITH (KZN)	036 638 2585/80/90	036 638 2581
NEWCASTLE	034 331 2300 034 375 5232	086 751 6456 034 314 6317
GLENCOE	034 932 9886/93	034 932 9898
HLUHLUWE	035 562 4308/10	035 562 0734
KWA-MBONAMBI	035 580 4512/3 035 580 8069	035 580 4125
MELMOTH	035 874 0280/76	035 874 0278
NONGOMA	035 836 1031/4/6/8	035 836 1036
NQUTU	034 271 4300/05 034 271 0326	034 271 4307
KOKSTAD	039 727 8026/5/4	039 727 8028
VRYHEID	034 989 6800/06/11	034 989 6823
GREYTOWN	033 413 9062/4	033 417 1316

Limpopo

Stock theft unit	Telephone	Fax
COORDINATOR	015 290 6825	015 290 6997
MAKHADO	015 519 4384/3/8	015 519 4389
POLOKWANE	015 290 6996	015 290 6997
LEBOWAKGOMO	015 633 1076 015 633 1306	015 633 1110 015 633 1436

Stock theft unit	Telephone	Fax
MODIMOLLE	014 718 1031 015 409 1244	014 718 1032
MAAKE	015 355 8386/73/06	015 355 8370
MARBLE HALL	013 261 1133/4	013 261 11334
MUSINA	015 534 7417/2	015 534 7413
GIYANI	015 8115137/8	015 811 5100

Mpumalanga

Stock theft unit	Telephone	Fax
COORDINATOR	013 762 4416	013 762 4771
BETHAL	017 647 9917/8	017 647 3320
ERMELO	017 819 5805/6/7	017 819 5829 086 759 9718
STANDERTON	017 712 9309/4	017 712 9335
WAKKERSTROOM	017 730 0040/1	017 730 0507
PIET RETIEF	017 826 1321	017 826 2708
MIDDELBURG (MP)	013 243 5558	013 243 5570
TONGA	013 792 5700	013 792 5704
SIYABUSWA	No telephone lines	013 947 2170

Northern Cape

Stock theft unit	Telephone	Fax
COORDINATOR	053 839 2818	053 833 5210
DE AAR	053 632 9623/5 053 632 9500	053 631 3522
KIMBERLEY	053 861 3425	053 861 2280
POSTMASBURG	053 313 9315	053 313 0787

Stock theft unit	Telephone	Fax
UPINGTON	054 337 3461/56	054 332 3027
KURUMAN	053 712 9900 053 479 7086	053 712 9900/06
CALVINIA	027 341 1015	027 341 1856
SPRINGBOK	027 718 9114 027 421 7764	027 718 1254 027 718 9104

North West

Stock theft unit	Telephone	Fax
COORDINATOR	018 299 7825 018 299 7065	018 299 7151
PHOKENG	014 566 1736	014 566 1780
JERICHO	012 729 3271	012 729 1062
LEHURUTSHE	018 363 3820/5	018 363 3752
SANNIESHOF	018 683 8131	018 683 0037 018 683 8113
STILFONTEIN	018 484 7695 018 484 7703	018 484 1847
MAHIKENG	018 397 4115/2/1 018 397 4313/4111	018 397 4112 018 397 4019
VRYBURG	053 928 8700	053 928 8714/3

Western Cape

Stock theft unit	Telephone	Fax
COORDINATOR	021 467 8253	021 467 6329
BEAUFORT WEST	023 414 8569/8	023 414 8570
OUTDSHOORN	044 203 9066 044 203 9113	044 203 9158 044 203 9060
MALMESBURY	022 482 7021	022 482 7027
SWELLENDAAM	028 514 8360/1/2	028 514 8371

Registrar of Identification Marks

Delpen Building, cnr Annie Botha Avenue
and Union Street, Riviera PRETORIA

Private Bag X138 PRETORIA 0001
Tel: 012 319 6000
Fax: 012 319 7551

National Prosecution Authority

VGM Building (cnr Westlake and Hartley),
123 Westlake Avenue, Weavind Park,
Silverton PRETORIA

Private Bag X752 PRETORIA 0001
Head Office tel: 012 845 6000

General queries: communication@npa.gov.za
E-mails go directly to the communication unit,
which deals with the query as quickly as possible
or refers it to the relevant office or unit.

Director of Public Prosecution

DPP North Gauteng
Private Bag X300 PRETORIA 0001
Tel: 012 351 6700/2
Fax: 012 323 0866

DPP South Gauteng
Private Bag X8 JOHANNESBURG 2000
Tel: 011 220 4122
Fax: 011 220 4232

DPP North West
Private Bag X2009 MMABATHO 2735
Tel: 018 381 9001/2
Fax: 018 381 9033

DPP Free State
Private Bag X20506 BLOEMFONTEIN
9300
Tel: 051 410 6000/6146
Fax: 051 448 2671

DPP Northern Cape
Private Bag X5037 KIMBERLEY 8300
Tel: 053 807 4500/4563
Fax: 053 832 9434

DPP Western Cape
Private Bag 9003 CAPE TOWN 8000
Tel: 021 487 7238
Fax: 021 487 7237

DPP Port Elizabeth and Grahamstown
Private Bag X1009 GRAHAMSTOWN
6140
Tel: 046 602 3001/2
Fax: 046 602 3062

DPP Mthatha
Private Bag X5019 MTHATHA 5099
Tel: 046 501 2653/5
Fax: 046 501 2653

DPP KwaZulu-Natal
Private Bag X9008 PIETERMARITZBURG
3200
Tel: 033 845 4400/5
Fax: 033 394 6891

Office of the Public Protector

The Public Protector investigates
complaints of the public against state
agencies and civil servants.

Private Bag X677 PRETORIA 0001
Toll-free number: 0800 11 20 40
Customer services: 012 366 7143
E-mail: customerservice@pprotect.org

Independent Complaints Directorate

The Independent Complaints Directorate
investigates all cases where the police acted
wrongfully or violated your rights.

Tel: 012 392 0400
www.icd.gov.za



Parole boards

A victim can contact the parole board at the correctional centre nearest to the court where the offender was sentenced. Contact details can also be obtained from any correctional institution, including community correctional offices or from the local telephone directory.

Address information is also obtainable on the web page of the Department of

Correctional Services at www.dcs.gov.za. Alternatively the Department of Correctional Services can be contacted for more information:

National head office
Private Bag X136 PRETORIA 0001
E-mail: communications@dcsc.gov.za
Tel: 012 307 2278
Fax: 012 323 4942

Province	Telephone
Gauteng	012 420 0100
Limpopo/Mpumalanga/North West	012 323 4818
Free State/Northern Cape	051 404 0200
Eastern Cape	043 706 7802
KwaZulu-Natal	033 355 7300
Western Cape	021 550 6003

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