

CHAPTER 306

THE SPECIAL REGIONS ACT.

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CHAPTER 306

THE SPECIAL REGIONS ACT.

Commencement: 2 October, 1958.

An Act to make provision for the prevention of cattle raiding and stealing and the trespass by cattle in special regions and for matters incidental thereto.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “authorised officer” means an administrative officer, a police officer of or above the rank of corporal or any other person declared by the Minister by statutory instrument to be an authorised officer;
- (b) “cattle” includes bulls, cows, oxen, heifers, calves, goats, camels, sheep, mules and donkeys;
- (c) “community” means the people of any area, place or of any tribe or subdivision of any tribe;
- (d) “leader” includes an elder, a headman or a chief;
- (e) “prohibited area” means a place or an area in respect of which an order has been made under section 3;
- (f) “special region” means an area declared to be a special region under section 2.

2. Declaration of special regions.

The Minister may by statutory instrument declare any area to be a special region.

3. Minister’s power in special regions.

(1) Where a special region has been declared under section 2, the Minister may by statutory order declare any place or area within the special region to be a prohibited area and may by the same or any subsequent order—

- (a) prohibit the entry of any person into that prohibited area without the permission in writing of an administrative officer;
- (b) prohibit the bringing into the prohibited area of—

- (i) all cattle; (ii) any class of cattle; or
- (iii) all cattle or any class of cattle belonging to any community or to any members of any community; or (c) prohibit the building or erection of any huts, tents, enclosures or structures of any kind, including cattle kraals, within any prohibited area.

(2) An order made under subsection (1)(a) or (c) shall not apply to any person normally resident in the prohibited area in respect of which the order is made.

(3) An order made under subsection (1) shall be published in the Gazette and may be published in such other manner as the Minister shall direct.

(4) Notwithstanding the Interpretation Act, any order made under subsection (1) shall come into force on such date as the Minister shall direct, whether or not it has on that date been published in the Gazette.

(5) Any person who contravenes any of the provisions of an order made under subsection (1) commits an offence and is liable on conviction to imprisonment for a period not exceeding twelve months.

(6) Where any person has been convicted of the offence of contravening an order made under subsection (1)(c), the court may, in addition to any other penalty which it may impose, order that any hut, tent, enclosure or structure built or erected in contravention of the order be destroyed in such manner as the court may direct.

4. Binding over to keep the peace.

(1) Whenever a chief magistrate or a magistrate grade I is informed that any members of any community within a special region are likely to act in a manner which may lead to bloodshed, or to the theft of cattle or to the entry of cattle in contravention of an order made under section 3(1), the magistrate may in the manner hereafter provided require the leaders of the community, or any of them, to show cause why they should not be ordered to execute a bond or bonds on behalf of the community that the community will keep the peace for such period, not exceeding one year, as the magistrate may think fit.

- (2) No proceedings shall be commenced under this section unless—
 - (a) the community in respect of which the information is received by the magistrate; or
 - (b) the place where bloodshed or the theft or entry of cattle is apprehended,

is within the local limits of the jurisdiction of the magistrate.

(3) When a magistrate acting under subsection (1) deems it necessary to require any leader on behalf of any community to show cause under that subsection, he or she shall make an order in writing setting forth—

- (a) the substance of the information received;
- (b) the amount of the bond or bonds to be executed; and
- (c) the period for which the bond or bonds is or are to be in force.

(4) When any leader in respect of whom the magistrate has made an order under subsection (3) is present in court, the order shall be read over and explained to him or her; if any such leader is not present in court, the magistrate shall issue a summons requiring him or her to attend the court and shall on his or her appearance before the court read over and explain the order to him or her.

(5) The provisions of the Magistrates Courts Act relating to criminal summonses for accused persons and the power to arrest for disobedience of such summonses shall apply to a summons issued under subsection (4).

5. Inquiry before binding over.

(1) When an order made under section 4(3) has been read over and explained in the manner provided in section 4(4), the magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may be necessary.

(2) An inquiry under subsection (1) shall be made, as nearly as may be practicable, in the manner prescribed in the Magistrates Court Act for conducting trials before a magistrate's court.

(3) The provisions of the Evidence Act shall not apply to an inquiry under this section, and the magistrate may receive any evidence which appears to him or her to be relevant.

6. Order to give security.

If upon any inquiry under section 5 the magistrate is satisfied that the members of any community within a special region are likely to act in a manner which may lead to bloodshed, or to the theft of cattle, or to the entry of cattle into a prohibited area in contravention of an order made under section 3, he or she may make an order requiring the leaders, or any of them, in respect of whom the inquiry is made, to execute a bond or bonds on behalf of the members of the community that the community will keep the peace and be of good behaviour; but no such bond shall be for a greater sum or for a longer period than that specified in the order made under section 4(3).

7. Refusal to give security.

If any leader refuses without good cause to execute a bond which he or she has been required to execute under section 6, a chief magistrate or a magistrate grade I may forthwith order the seizure and confiscation from the community concerned of cattle to the value of the amount of the bond or of such part of the amount as he or she may think fit.

8. Breach of bond.

Whenever a chief magistrate or a magistrate grade I receives information that any members of any community any leaders of which have been bound over to keep the peace and be of good behaviour have—

- (a) acted in such a manner as to have caused or to have been likely to cause bloodshed;
- (b) stolen cattle; or
- (c) caused or permitted the entry of cattle into a prohibited area in contravention of an order made under section 3,

he or she shall inquire into the information in such manner as he or she shall think fit, giving, if possible, representatives of the community an opportunity of being heard; and if he or she is satisfied of the truth of the information, he or she may order that cattle to the value of the amount of the bond, or of such part of the amount as he or she thinks fit, shall be taken from the community and be confiscated.

9. Power of authorised officer to seize cattle.

- (1) Any authorised officer may seize and impound, or cause to be seized and impounded, any cattle in a prohibited area which he or she

suspects on reasonable grounds are in the prohibited area in contravention of an order made under section 3 and may, if he or she thinks fit, cause any of the cattle so seized and impounded to be sold, slaughtered or otherwise disposed of.

(2) Any seizure of cattle made under subsection (1) shall be reported forthwith to a chief magistrate who shall so soon as is convenient hold an inquiry into the seizure in such manner as he or she shall think fit, but insofar as is practicable giving all parties concerned an opportunity of being heard.

- (3) If, after holding an inquiry under subsection (2), the magistrate—
- (a) is satisfied that the cattle when seized were in a prohibited area in contravention of an order made under section 3, he or she shall—
 - (i) order the forfeiture of all such cattle seized and still impounded; or (ii) if any of such cattle have been sold, slaughtered or otherwise disposed of, declare that such action was lawfully performed and thereafter such action shall not be questioned in any court and the proceeds of the sale of any such cattle shall be paid into the Consolidated Fund; or
 - (b) is not satisfied that the cattle when seized were in a prohibited area in contravention of such an order, he or she shall—
 - (i) if the cattle are impounded, order their return to the owners of the cattle at the expense of the Government; or (ii) if the cattle have been sold, slaughtered or otherwise disposed of, order the Government to pay such compensation to the owners of the cattle as he or she may think fit.

(4) An order or declaration of a magistrate under this section shall be final.

10. Authorised officer may shoot trespassing cattle.

(1) Without prejudice to the powers conferred on authorised officers by virtue of section 9, any authorised officer who finds cattle in a prohibited area in contravention of an order made under section 3, may order any person apparently in charge of the cattle to remove them from the prohibited area.

(2) Where—

- (a) an authorised officer has issued an order for the removal of cattle under subsection (1) and after the expiration of a reasonable time the cattle have not been moved in accordance with the order; or
- (b) there is no person apparently in charge of any cattle to whom an order under subsection (1) can be directed,

the authorised officer and any person acting in aid of him or her, may do all things necessary to remove the cattle from the prohibited area and may, if necessary, shoot or destroy in any other manner any such cattle.

(3) Where any cattle have been shot or otherwise destroyed under this section, the shooting or destruction shall be reported forthwith to a chief magistrate who shall so soon as is convenient hold an inquiry into the shooting in such manner as he or she shall think fit, but insofar as is practicable giving all parties concerned an opportunity of being heard.

(4) The provisions of section 9(3) and (4) shall apply, with all necessary modifications, to an inquiry held under subsection (3).

(5) Any person who fails to comply with an order made under subsection (1) commits an offence and is liable on conviction to imprisonment for a period not exceeding twelve months.

11. Power to follow up and seize cattle.

- (1) Whenever an authorised officer is satisfied that—
 - (a) any cattle have been stolen, whether within a special region or not; and
 - (b) after such cattle have been followed up, members of a community within a special region—
 - (i) have taken part in the theft; or
 - (ii) are sheltering or otherwise in any manner aiding or assisting any person who took part in the theft; or (iii) are concealing any of the cattle, he or she may seize from the community cattle to the value of the cattle so stolen.

(2) Any action by an authorised officer under subsection (1) shall be reported forthwith to a chief magistrate who shall so soon as is convenient hold an inquiry into the facts of the case in such manner as he or she shall think fit, giving if practicable an opportunity for members of the community from whom the cattle have been seized an opportunity of being heard.

(3) If a magistrate on holding an inquiry under subsection (2) is satisfied that the seizure of cattle was justified, he or she may order that all the cattle, or any specified number of the cattle, be given to the person from whom the cattle were stolen; except that if by virtue of the Animal Diseases Act such an order cannot be carried into effect, the magistrate may order that all the cattle, or any specified number of the cattle, be sold and that the proceeds of the sale be given to the person from whom the cattle were stolen.

(4) If a magistrate makes an order under subsection (3) in respect of a specified number only of cattle seized under this section, he or she shall order that any remaining cattle be returned to the community from which the cattle were seized.

(5) If the magistrate holding an inquiry under subsection (2) is not satisfied that the seizure of cattle was justified, he or she—

- (a) shall order that the cattle be returned to the community from which they were seized; and
- (b) may order that such compensation as he or she may think just be paid to that community in respect of the seizure.

(6) An order of a magistrate under this section shall be final.

12. Power of court to make an exclusion order.

(1) In any case when a court convicts any person of—

- (a) an offence under this Act;
- (b) an offence involving violence to any person or property; or
- (c) an offence involving or relating to the theft of cattle, and the

offence is committed within a special region, the court may, in addition to or in lieu of any other punishment which it is empowered to impose, make an exclusion order in relation to that person.

(2) An exclusion order made under this section shall prohibit the person in respect of whom it is made from entering and remaining in, for such period not exceeding five years as may be stated in the exclusion order, any specified area within the special region.

(3) A court making an exclusion order may impose such other conditions as in the circumstances of the case may seem expedient in relation to preventing the person in respect of whom the order is made from

associating in any manner with persons in the area from which he or she is excluded.

(4) An exclusion order made under this section in respect of a person sentenced to a term of imprisonment shall have effect on the date of his or her release from prison.

(5) Any person who contravenes the provisions of or any condition in an exclusion order commits an offence and is liable on conviction to imprisonment for a period not exceeding twelve months.

(6) Where any person has been convicted under subsection (5) in respect of any contravention of the conditions in an exclusion order, no period during which that person is serving a term of imprisonment in consequence of that conviction, or during which that person may have escaped from lawful custody during that term, shall be taken into account for the purpose of calculating the duration of the exclusion order.

(7) On application made at any time by or at the direction of the Attorney General the High Court may vary the terms and conditions of an exclusion order; except that the High Court may not vary any such order to the prejudice of the person against whom the order is made without giving that person an opportunity of being heard.

13. Action under Act not to affect proceedings in a court, in certain circumstances.

(1) Where any cattle have been seized, sold, slaughtered or in any other manner whatsoever disposed of in accordance with the provisions of this Act, and the seizure, sale, slaughter or disposal has been the subject of an order or declaration of a magistrate following an inquiry under those provisions, no civil proceedings shall be commenced in any court by any person in respect of any such cattle.

(2) Except as provided in subsection (1), no action taken under this Act shall be deemed to be a bar to any civil or criminal proceedings in any court; but in assessing any damages or compensation a court shall have regard to any compensation paid under this Act.

14. Indemnity to persons acting in good faith.

No act done or omitted to be done by any person acting or purporting to act under the provisions of this Act shall, if done in good faith in the execution of his or her duty, subject that person personally to any liability, action, claim or demand.

15. Inquiries where chief magistrate is unable to act.

Where under this Act an inquiry is directed to be held by a chief magistrate and for any reason a chief magistrate is unable to commence the inquiry until after the expiration of seven days from the date on which a report on the matters leading to the inquiry has been received by him or her, any magistrate grade I appointed by the Chief Justice for that purpose may commence within the period during which the chief magistrate is unable to act and thereafter conclude any such inquiry, and for that purpose the magistrate shall have and may exercise all or any of the powers conferred on a chief magistrate by virtue of this Act.

History: Cap. 314; Act 13/1970, s. 241.

Cross References

Animal Diseases Act, Cap. 38.

Evidence Act, Cap. 6.

Interpretation Act, Cap. 3.

Magistrates Courts Act, Cap. 16.